

## Closed Caption Log, Council Meeting, 02/04/10

**Note:** Since these log files are derived from the Closed Captions created during the Channel 6 live cablecasts, there are occasional spelling and grammatical errors. **These Closed Caption logs are not official records of Council Meetings and cannot be relied on for official purposes.** For official records or transcripts, please contact the City Clerk at 974-2210.

Leffingwell: Good morning. Good morning. I'm austin mayor lee leffingwell. We'll begin today with the invocation from mark washington who is the pastor at the vision of hope ame baptist church. And he's also the city austin's hr director. Welcome, mark. Please rise.

To our always wise god, we thank you for this day. We thank you for the privilege of being stewards and trustees of this community. We ask that you would endow our leaders with vision, with fairness with patience, with understanding as they deliberate the various matters of this fair city. We pray, god, that you will guide those that guide others, give patience to those that have to deal with others, and we pray that you will do this in a manner that is pleasing and acceptable in your sight. It is in your precious name that we pray, amen.

Mayor Leffingwell: Please be seated. We'll call this meeting of the austin city council to order on february 4, 2010, a little bit late at 1008. We're meeting in the council chambers at austin city hall, 301 west second street, austin, texas. We'll begin with the changes and corrections to today's agenda. There is only one, to item number 27, strike the word piece and insert the words public safety so that it reads public safety officers. Our time certain items are 00 we'll have our general citizens communication. 00 we'll take up our zoning matters. 00 we'll take up public hearings. 30 live music and proclamations. 00 we have public hearings. The consent agenda for today is items 1 through 30 and 39. Only one item has been pulled from the agenda and that's item number 3, pulled by Council Member riley. And on item number 26, I'll read into the record or board and commission appointments for today. To the arts commission, samuel tinnen by councilmember riley and to the public safety commission sam holt, by yours truly, mayor lee leffingwell. Are there any further items to be pulled from the consent agenda? Hearing none, I'll entertain a motion to approve the consent agenda. Moved by Council Member shade. Seconded by Council Member morrison. Any discussion? Before we vote, we do have one citizen, I believe, signed up on item number 39. And we'll hear from that citizen. Edward reznick, who has signed up being neutral. Are you in the chambers? Welcome. You have three minutes.

Thank you. I hope not to take that. I thank you and the council for giving me a minute to speak. I wish to support the ordinance that item 39. I do appreciate all the assistance that the city gives the youth sports programs and we look forward to that continuing. Thank you very much.

Mayor Leffingwell: Thank you. All in favor of the motion, say aye. Any opposed? It passes on a vote of

seven to zero. We'll now take up item number 3 and recognize Council Member Riley.

Riley: Thanks, Mayor. Item number three relates to some changes in our program for our incentivizing solar installations on rooftops, and in particular this is --

Mayor Leffingwell: Council Member. Could I ask you to please exit the chambers silently so we can continue with our business? Thank you. Council Member.

Riley: I think we're doing a good job of reassessing our solar incentive programs, but there is one concern that I wanted to address and that relates to some changes in the commercial programs. We're now -- in connection with this item, we are moving away from offering rebates up front and moving towards a system in which instead we have a production-based incentive where over a 10-year period that we actually compensate those businesses that install those things, and that payout is done over a 10-year period. There is some concern that has been raised on the part of our local nonprofits who have a little bit harder time. This change, as I understand it, actually works very well for many businesses as a result of their federal tax payments, but it doesn't work so well for nonprofits, which are in a tough position in terms of being able to afford the significant investment required for these initial installations and don't have the same tax advantages that for-profit companies have. And I understand that our staff, Austin Energy staff will be meeting with nonprofits tomorrow, and I'm confident that we will be working towards a solution that addresses those concerns, but in the meantime the concern is out there that by the time we get around to figuring out how we're going to make incentives available to nonprofits that the funds available for solar incentives for commercial will be gone because in the meantime, we're already putting a program in place for -- that will help the for-profit companies. I was hoping to ask Austin Energy staff whether they could provide any assurances to nonprofits that they will continue to have meaningful access to solar incentives because nonprofits have been -- have played a very important part in our solar programs and have done a great job in actually getting some significant installations up. And I want to -- I just want to see if we can provide any assurance that they will continue to be able to do that sort of thing in the future.

Mayor, members of council, Council Member Riley. Yes, this is -- the issue of nonprofit customers participating in the solar program is one that is of some concern to us. It is exactly for the reasons that you stated, that we have in retuning this program, but actually all along have realized that because of federal tax incentives we can actually leverage federal tax dollars to make our solar incentive program less expensive to all the rest of the customers, who ultimately pay for it. That benefit is not enjoyed by nonprofit customers, although of course nonprofit customers do receive the significant benefit of not having to pay taxes, so there is a lot bit of compensation there. Still, it's appropriate to just spend a minute telling you about some of the things we're trying to do to address that sector in addition to the meeting that we talked about. First, it's worth -- I guess it's important for me to remind you that our goal, our vision, if you will, is the development of an economic -- is the economically efficient development of a sustainable market for solar. So at this stage solar is still more expensive than most other alternatives and it requires some kind of incentive, whether up front or through this proposed performance based incentive for commercial, multi-family and nonprofits in order to kind of get over the hump and get it used so that eventually those market Council Member Alvarez take over and solar becomes, as we say,

vernacular. So we've got a goal and by and large nonprofit customers will be more sort of beneficiaries of the success of our program than drivers because they do face difficulty in accessing capital and they don't enjoy that -- the ability to leverage those special tax benefits. Still, in terms of history, it is important to note that throughout the entire program about four percent of our rebates and four percent of the total installed energy from our solar program has gone to nonprofit customers. About 230-kilo watts out of the five megawatts that we've installed. A substantial portion of that is with low income housing, communities leveraging through the multi-family and nonprofit side of doing solar, so they're benefitting a lot of customers through that. The rest through churches and other entities. There are a couple other path ways in place and I think these are the places that will give us most leverage when we talk about them to tomorrow. Things like a group like one house at a time who actually secures donations from people and corporations to pay for solar on low income households. That takes advantage of tax benefits because of course the donations are tax deductible. So it helps lower the cost of the solar systems. We're also in development of a project now where we lease a roof from the nonprofit entity and keep the solar system on our side of the meter and make a payment that looks like a lease payment sort of paying for the electricity. In addition, we're also looking at -- you received a memo and we're looking at the pace program, the idea of stretching out those payments over the life of the measure and having it roll with the property. That's particularly attractive to those kinds of customers. And one other, and my memory fails me. We also have a pending application for several millions of dollars to the federal government in which we're seeking funds to establish a community solar installation where we would put up a really big system someplace in a public place, and then carve off shares of that to enable nonprofits and low income customers and even customers who have shady roofs to participate in solar even if it doesn't work for them at their facility. So a lot of ideas. The nonprofits are not excluded from participating in both our residential program, like one house at a time is doing getting donations for individual households, or in the commercial multi-family and nonprofit sector. It's the issue of getting that up front cash. It's exactly the same status they have had before, but what we're doing at this time is looking for more ways to go forward. One concern I have, and I'll just tell you up front, one of the things I don't want to do is in an effort to serve that small community sort of frustrate the rest of the program. So we have to balance that. If we let nonprofit entities have much bigger cash incentives or, you know, all their payment up front, then of course that challenges the budget for the rest of the program and that limits the amount of work that can go on the community. So we're looking at them. We're going to manage the flow of our funds under the commercial program in thirds, so we'll be able to control the budget flow through the rest of the year and through each year as we go forward. That 100,000, even though it doesn't sound like much, has high leverage because we're stretching the payments out so it actually can support 23 separate projects. And we're hoping that some nonprofit organizations can kind of organize themselves to participate in that. That's why we're starting with that meeting tomorrow. So that's sort of the rundown on what our thinking is so far.

Riley: So if I may, mayor, just to be clear, as a result of the funding being broken up into thirds, then there would be opportunities over the course of this program to pause and assess whether nonprofits are still enjoying access and meaningful incentives for solar.

And during that time we should know if the lease deal is working. Hopefully we'll find out that the additional federal money is coming in. Yes, we've staged ourselves so that it doesn't kind of go all out

the door the first day.

Okay. So bottom line is you feel cautiously optimistic that nonprofits will continue to enjoy access to funding for solar.

Yes, sir. One house has three applications pending for us in the residential program right now. I know they're leveraging their nonprofit status to make more solar happen.

Riley: I totally agree there's a matter of striking the right balance. We want to make sure that nonprofits aren't shut out along the way. And I'm glad to hear that that's not likely to be the case. I appreciate all your work on that. With that, mayor, I'll move approval of item 3.

Mayor Leffingwell: Council Member Riley approves item 3, seconded by Council Member Spelman. Any further discussion? All in favor necessary opposed? Passes on a vote of six to zero with Council Member Cole off the dais.

Thank you again for your support.

Mayor Leffingwell: Council, we have no additional items on our agenda that we can take up at this time. So without objection, we stand adjourned until 12 noon. Excuse me. Did I say adjourned? I retract that statement. We are in recess until 12 noon.

Good afternoon. Council is out of recess. We will take up citizen's communications at this time. First speaker is John Goldstone, and his topic is 12th Street. Welcome and you have three minutes.

Please don't start yet. That was a mistake. Mayor Leffingwell, council members, my name John Goldstone, I live in the sweep of the proposed cameras. I'm here to warn you about the proposed cameras and the wi-fi transmitting mobile units. After discussions with Commander Gay and OSHA directors I've become disgusted and outraged as the slash-dash process for seeking community input and APB's inability to share information about this with stakeholders this will target property and private crime but at 12th it is prostitution and drug sales. It was some opaque request for input, what right does the city have to consent to this personal intrusion on my behalf. My outrage is this is not a zoning or land use case, or heights or uses, this is the ultimate intrusion, the ultimate taking of me into my bathroom, living room, bedroom, kitchen, front yard, backyard, freedom of me and my family and friends to enter my property, the city tabled this discussion after comments. It would have to include every resident and home in this camera sweep or any neighborhood group outside that sweep. They cannot answer where the cameras will be located, what is the extent of their sweep, how strong the lenses will be will have access to the streams and recordings. Whether they will be monitored and by whom. APB contradicted itself on this issue and how long the recordings will be kept. How can anyone sanction placing highly intrusive cams in residential areas without input. Since we don't have the answer to any of the key questions, we can't actually determine the community from which we want input it is then impossible, let me say again, impossible for any group or individual in an informed majority vote, suggest or presume to recommend these cameras. The bottom line is that there is no valid community input on this issue.

The best way to 1068 the crime problem at 12th is more regular detective investigations and public police presence during school hours, as school children regularly walk past this corner. At the meeting, while we you agreed crime was a problem that the corner, heads were nodding in agreement that maybe they had not thought through all of the unanswered questions and privacy issues. Separate question, what is the city's potential liability if the distribution use images. Crime at 1260 is a problem but the taking of the most of important property rights, privacy, from me and all the other uninformed stakeholders and children in this you should be a part of. I ask the council to please direct the apd to amend its grant which has already been accepted by the city manager. So much for the community input. Thank you very much, I apologize for going over. I've given you more detailed information in there and I will be e-mailing all the information, including the grant.

Council member Spelman.

I understand the assistant chief is here to answer questions made by the is in set and has citizen and information on how it is going to work before it is put in place.

David Carter, assistant chief, apd. Chief felt has some information and I have some information and I will try and address those. The complaint that we heard, there is a lot of information in there that I think people should be concerned about in general if those issues have not been thought through. Some of that is still a work in progress. I think it is real important to understand that we're working through the issues in terms of the -- for example, what is the best vendor. We've still got a little bit of time left on that clock, looking at best practices, looking at establishing a solid policy to address issues, for example. I heard the speaker talking about issuing about privacy concerns, looking into windows and things such as. That you know, law enforcement in general is charged with, you know, ensuring constitutional protections and we recognize there is a public trust component to this. We don't want this to go down some wrong path, and part of that process is a transparency piece. We know it is very important for council to understand the process, as well as the citizens, so I think a lot of citizen groups have approached us in a, you know, asking for things to be done to leverage technology to help -- leverage technology to help crime fighting and this is a good tool that will help but we understand we need to be involved in the process with your blessing and the citizen's blessing so I'm here to answer questions. I can't answer all those things specifically other and to say we will bring you very specific proposals with the downtown pilot policy that will start, which has great support, as far as we understand from the downtown community in terms of where these cameras will be located, we will actually share at, it will basically be -- they will be located in areas where we know there are problems regarding criminal activity, or if there is a large event where you have a large crowd where there is potential for issues, then we will also monitor those cameras at that time. So I heard a lot of different things here and I think the policy we develop probably will be able to answer a lot of those questions. I'm looking at probably a matter of a few weeks on. That we will also give you those specific locations and explain why we need to have those cameras at that particular location. Be happy to do that and answer any additional questions.

Chief, if you could, just a minute, we have had a pilot project downtown already, is that correct?

No, it hasn't started.

We haven't placed any cameras anywhere in the city.

That's correct. The cameras you see now are traffic cameras that are not connected to the police department.

Have there been examples of other cities around the United States that have placed cameras?

There is a large number of cities across the country that have implemented them, and for example, Dallas, Baltimore, New York City, Chicago. And the one that we're actually recently looked at that had gone through a lot of vetting with folks concerned about privacy is the project in Denver. Because of the Democratic National Convention that city put up a camera project fairly quickly. A lot of community interest there, pro and con, so that was a good location for us to look at in terms of best practices. They came up with very sound policy involving people, groups such as ACLU and other folks so 're clearly looking at that as well as other big cities.

There is an experiment-based place to look for policy.

I hate to interrupt but I think we're getting into a discussion of an unposted item because this was not listed as topic on the speaker's agenda and I think we're right on the edge there of flirting with an open meetings issue. So if you want to have this discussion off the dais, chief, with the speaker in the back that might be the best way to handle that and we can handle it also on the dais if it is properly posted. I've said several times when folks sit up, speak in citizens communication. The reason that you're asked for a topic, the reason you're asked to list a topic is so there can be this kind of exchange. If you don't list the topic, you're perfectly able to hold forth on anything you want to say, except we can't engage in this back and forth dialogue between the council and the speaker and staff members.

It would be appropriate for me to ask that chief Carter ensure there is also a public process associated with the policy rolled out and these policies get broad community consideration.

I think you just did that.

I think I did. Thank you.

Thank you, chief. The next speaker is Tommy Eden. Tommy Eden and his topic is immediate improvement of major arterials for bicycles.

Thank you, Mayor Leffingwell and council members for this opportunity to speak. My name is Tommy Eden. The hazards that bicyclists face on our major arterials and the need to make improvements to those streets. Just three weeks ago I was involved in a collision on South Lamar Boulevard. You may have already heard about it, but about 10 years ago I studied the safety of Austin streets, which streets are the most dangerous, which ones need improvement. South Lamar Boulevard showed up right there

at the top of the list. It's been 10 years and there has been an improvement on south lamar boulevard. We now have a climbing lane that was put in a year ago, but we need to raise the priority of some of these most dangerous streets, starting with south lamar boulevard, and this is not the first time that I've been in a collision on south lamar boulevard on a bicycle. This is the second time in two years. This is an extremely dangerous situation and I'm just asking you to see to it that the priority of bicycle improvements is raised, if necessary, to make immediate improvements on this street. I've been telling people, you know, the way things are looking, either this street is going to have to be fixed or I'm going to have to stop riding my bicycle. And I'm not going to stop riding my bicycle. Thank you.

Thank you. Any questions for the speaker?

Can you give us about a rough idea of the facility or improvement that you think would help address the situation from the accidents you were involved in?

Both of these were rear end collisions on nonintersection locations. This is a relatively rare kind of discussion. I've studied them. A large number of them are at intersection locations where the bicycle and the other vehicle are going in different directions. The best improvement that you can make to relieve this situation is to put bike lanes on both sides of the street.

Thanks, tommy.

Next speaker is kenneth lewis. Kenneth lewis, whose top sick false arrest and compensation. You have three minutes.

Good afternoon, council. Thank you, mayor leffingwell. False arrest preseaton, i would feel a guilty remiss in that this is black history month and not give proper attention and honor of those who sacrificed and had the courage to stand up againsts atrocities and injustices of racism and segregation. I'm speaking of markus garby, and legions of others, time does not permit me to continue. In their honor, the struggle for justice does continue. Citizens against false arrest. My gain is for closer for abuse and financial compensation. Council and citizens of austin, my name is kenneth lewis, I am a native austinite, formerly education from houston, texas. On april 4, 2007, I was arrested and charged with aggravated sexual assault, I was released on a 45,000 bond on april 7, 2007. That same evening, I was placed on house arrest for approximately six months. Reported every month to approximately six months, reported every month to court only to be reset over and over for a year and a half, or so. Reported week three pretrial services of travis county, for a year and a half, all thehile I'm thinking of a five year to life prison sentence hanging over my head. And the crime stopper has my picture. While living downtown for seniors and the disabled, march of 2007, during the time I was rennovating the library there, two officers came to my 15 p.m. The officer doing a lot of the talking asked questions has wassed and taunted me for -- harassed and taunted me for 10 to 15 minutes. I asked his name since his badge was concerned, he grinned, smirked and walked away as if them they were above the law, without identifying themselves. Several days later officers came to my apartment from the apd sex crimes division because i, with the assistance of other organizations had rennovated the library where I resided I was constantly packing for my imminent relocation. I was is ad asked by the officers where

was I moving to, could i give them my forwarding address, and I complied with nothing to hide so why did my picture appear in crime stoppers. Why? To harass and thought me taunt me more. I went to the hospital, i thought I was suffering a nightmare. When a defendant has been detained --

mr. lewis.

I will provide you the packets that I've given to several other council people. Thank you for your time.

Next speaker is gus peña. Gus peña to speak on city issues. Not in the chamber? Debbie bressette. Debbie bressette. Debbie bressette, not in the chambers. Bruce kline. Bruce kline. Gus peña, debbie bressette, bruce kline. Not in the chambers. Those are all the speakers that we have signed up to speak in citizens communications. Council, we have no other items on our agenda that we can act upon. We have 2:00 zoning. Anticipated to be very short. I think it will be more efficient on everyone's time if we recessed until 4:30. So without objection we are in 30 and we will begin at that time with our zoning cases. [Gavel pounding]

Mayor Leffingwell: Good afternoon. We are out of recess and will begin by taking up our two p.m. zoning cases.

Thank you, mayor and council. My name is greg guernsey, director of planning development and review. I would like to walk through zoning and neighborhood plan amendment items. These are items where public hearings and possible action is available this afternoon. Item 31 is case c-14-2009-0127. This is for the property located at 7685 northcross drive. This application has been withdrawn. No action is required on the council's part. Item number 32 is case c-14-2009-0149 for the property located at 2103 west slaughter lane. This is a zoning change request to general office, mixed use or go-mu combining district zoning. The zoning and platting commission's recommendation was to grant general office mixed use conditional overlay combined district zoning and this is ready for consent approval on all three readings. Number 33 is case c 02, known as the comanche canyon ranch p.u.d. This is amendment number 2 for the property located at comanche trail and monte parkway. This is a zoning change request from planned unit development to change the condition of zoning. The zoning and platting commission recommendation was to grant the pud zoning with a change of the condition of zoning. It is ready for consent approval on first reading only. That concludes the items i can offer for consent.

Mayor Leffingwell: So the consent agenda for those items for which we have yet to hold a public hearing, number 31 is withdrawn. To close the public hearing and approve on all three readings item number 32. To close the public hearing and approve on first reading only item number 33. Councilmember spelman moves approval, councilmember morrison seconds. Is there any discussion? All in favor say aye? Any opposed? It passes on a vote of seven to zero.

Thank you, mayor and council. That concludes the zoning items for sewed.

Mayor Leffingwell: Thank you. 00 public hearings and possible actions, and we'll begin with item number

34.

Afternoon mayor and council. My name is virginia collier from the planning development and review department. This is the second of two public hearings for the following three annexation areas, items 34 through 36. Council will not be taking action on these items today. Ordinance readings are tentatively scheduled for february 25th. Item number 34 is the harris branch out parcel area which is proposed for full purpose annexation. This includes two acres locate understand travis county. It is in they's e.t.j. And is undeveloped. The property owner has requested annexation to facilitate zoning and development of this site and upon full purpose annexation the city will provide full municipal services to the area as described in the service plan, copies of which are available out front today. I would be happy to answer any questions you have on item 34.

May Leffingwell: Any questions, council? There are no speakers signed up on this item. I'll entertain a motion to close the public hearing for item number 34. Moved by councilmember spelman. Seconded by the mayor pro tem. Any discussion? All in favor say aye? Any opposed? It passes on a vote of seven to zero.

Item number 35 is the morris closing linda vista area which is proposed for limited purpose annexation area. This is approximately 34 acres in southern travis county, is currently in the and is undeveloped. Future proposed development includes commercial land uses and annexation for limited purposes of planning and zoning extends the full range of city regulatory authority considering development and landse in the area and in the regulatory plan. Copies of that are available today. Future full purpose antion will be scheduled at the time the balance of , of which these tracts are a part, is annexed for full purposes. This concludes the staff presentation for item 35.

Questions for staff? There are no speakers signed up for item 35. I'll entertain a motion to close the public hearing on item 35. Councilmember spelman moves approval. Councilmember riley seconds. Any discussion? All in favor say aye? Any opposed? It passes on a vote of seven to zero.

Item 36 is the green ores gla and ec area proposed for limited purpose annexation. This includes approximately 161 acres located in travis county. It is in the city's e.t.j. And is developed for annexation. Limited purpose annexation extends the city's ordinances and regulations, including building and zoning codes as described in the planning study and regulatory plan, copies of which are available today. And areas annexed for plimented purposes, the city does not assess property taxes or full municipal services, flample, public safety and road service will continue to be provided by travis county. After annexation any resident can vote in city elections. Full purpose annexation will take place after 2015 in accordance with the development agreement. This concludes my presentation for item number 36.

Mayor Leffingwell: Questions for staff? There are no speakers signed up on item number 37. I'll entertain a motion to close the public hearing on item 37. Councilmember spelman moves to close the public hearing on item 37. Councilmember cole seconds. Did I say 36? 36, Correct. Close the public hearing on item number 36. Motion by councilmember spelman, seconded by councilmember cole. Is there any discussion? All in favor say aye. Any opposed? It passes on a vote of seven to zero. That

brings up item number 37.

Thank you, mayor and council. Item number 37 is to conduct a public hearing and consider an amendment to the land development agreement between the city of austin independent school district and the city of austin to increase the height restrictions for a structure for a new performing arts center at mccallum high school located at 5600 sunshine drive. It's off koenig lane. It's kind of immediately jay sent or just west of the austin water utility facility we have out there. The height would increase from 60 feet to 80 feet to accommodate the performing arts city's fly tower. I don't know if you recall, we had the zachary scott theater had a similar request that was narrowed for them. I'm very pleased to announce the neighborhood is in support. The brentwood neighborhood association steering committee voted to support this request for this increase in height. The area would be located on the northern part of their property. There's also a softball field, but really the issue that's before you is to make the comom addition -- the accommodation for this campus for it to go from 60 to 80 feet. The planning commission recommended this and also on consent. If you have any questions, i would be happy to ar it.

Mayor Leffingwell: Questions for staff? I would point out that the fly tower is not for flies, it's part of the stage for the performing arts center.

Cole: Mayor, I just had a comment.

Mayor Leffingwell: Councilmember cole.

Cole: I recognize that mccallum high school has been trying to get this performing arts center for well over 10 years now, and I'm pleased that the city of austin is doing this little baby step to get us going. So with that I'd like to move approval.

Mayor Leffingwell: Councilmember cole moves to close the public hearing and approve the amendment to the land development agreement finally between the city of austin and the austin independent school district. And the second was by councilmember spelman. Any discussion? All in favor say aye. Any opposed? It passes on a vote of seven to zero.

Thank you very much.

Mayor Leffingwell: So council, that concludes our four p.m. public hearings. We have one public hearing with possible action which, and I want to explain the reason it was not scheduled as our current practice is because the notification went out before we changed our rule to allow public hearings at four p.m. So we only have one item remaining, so without objection, the council will go into recess until 6:00 p.m.

Riley: I am austin city councilmember chris riley and I am proud to announce c.l.u.e. This hip hop r and b and dance group developed in late 2009 and is already making waves in austin as youth under 21 music scene. won the youth cast talent show presented by the austin school for the performing and visual arts. They performed at the annual downtown holiday stroll and also at first night austin and at the grand opening for the school of aftea, the school for the performing and visual arts. They have a very

exciting and talented young group of folks out of round rock and we're so glad to have them with us today. I want to welcome you here and let you do your thing. Before you get into it, i want to ask you a couple of questions. Do you have a website? Okay. Where can folks see you perform?

[Inaudible - no mic].

Riley: Critical --

[inaudible - no mic].

Riley: Critical (indiscernible) at yahoo.com.

[ Inaudible ].

Riley: Great. Thanks so much for being here and dive into it. [ applause ]

Riley: All right, all right. That was terrific. Good stuff. That was really great, guys. One more time in case people missed before, could you give that e-mail address you had.

Critical under score n@yahoo.com. We really appreciate the performance and you persian gulf here today. On behalf of the mayor and the whole city council i want to offer a proclamation to you guys. And I'm just going to read it here. It says be it known that whereas the local music community makes many contributions toward the development of austin's social, economic and cultural diversity and whereas the dedicated efforts of artists further austin's status as the live music capitol of the world, now therefore I lee leffingwell, mayor of the city of austin, texas, do here by proclaim february 4th, 2010 as c.l.u.e. day in austin. [ Applause ]

Mayor Leffingwell: We have a special proclamation to the city at this time.

Thank you. I actually have two award presentations today on behalf of the texas association of partners of education. The first one I would like to present to you is the community partnership award for academic impact for the city of austin's mentor and tutor program with austin isd. It is a top award in that category.

Mayor Leffingwell: Thank you.

The second award is out of over 70 applications, the city of austin was the top winner. We only award one of these in these categories throughout the state out of all the award nominees that we had. So on behalf of the board of directors of the texas association of partners in education and staff, I want to present this to the city as well. [ Applause ]

Mayor Leffingwell: Well, thank you very much for this recognition. We all know how important our

mentoring programs are, not only in austin, but around the state as well. I do want to take this opportunity to recognize our city of austin employees who have put so much effort into this to the point whereas a group city of austin employees constitute the single biggest group in the city of austin to be active in this program. Bigger than any other private or public organization. So my hat is really off to the people, to the employees of the city of austin who made this happen. And kathy aarons, who has been active in this program with austin energy, would you like to say a few words on behalf of the employees?

Hi. I'm brenda branch. I'm the director of libraries. I also have the honor of serving as the corporate executive sponsor for this wonderful program. And I'm really grateful to -- for this recognition and acknowledgment of the very hard work and dedication of our city of austin employees. It would not have happened, of course, without the very hard work of our two coordinators, ben and kathy. I'd like kathy to make a few remarks.

Thank you, brenda. And first of all, I just want to say thank you to our wonderful city council and city manager and mayor for supporting this program. It's due to their support and continued support of this program that last year we were able to have five percent of our eligible workforce participate in this program. Giving back to austin students. And this year we have almost 400 employees that are participating in this program, so really I just want to thank you for your continued support for allowing us to give back to austin students and the austin independent school district. So thank you so much.

Mayor Leffingwell: Thanks again for the award. And I want to give our city manager, who has been actively promoting this program, an opportunity to say just a few words.

Ott: Thank you, mayor and thank you, susan, for honoring us with those awards today. Obviously I want to join the mayor in recognizing kathy and brenda for your fine work on this. I saw you the day that you came back from the presentation and you all were just glowing, given the recognition that you received that day at the luncheon. And it was truly well deserved. I would also be remiss if i didn't recognize some other people too, like namely rolando fernandez. Did I say that right? [ Laughter ] in my office, who is my assistant, and who does a lot of the coordination on my behalf. But in addition to that of course, you know, one of the reasons we're big on it is because we have so many employees that participate in these programs. So really it's heart felt appreciation to all of the employees who take time out of their otherwise busy day to go to our schools and spend time tutoring and mentoring students in the austin isd. I have been an active participant in that program as well as a mentor, probably since -- I probably got involved after a couple, two or three months on the job. And it's been an absolutely rewarding experience for me as well. So we're very proud to receive these awards, and my hat is really off to all of you and to our employees for their continued commitment to what I think is very important to the future of our city. Thank you very much. [ Applause ]

Mayor Leffingwell: So we'll proudly display both of these awards. Mayor pro tem has the other one there. We'll have it in the display case outside my office on the second floor so that it's available to the public to see this award along with the others that we've gotten. I recognize mayor pro tem martinez, councilmember riley, councilmember morrison. Would any of you like to say a word? Okay. Thank you

very much. Again, thanks for your hard work and we'll all take a picture and we'll be done. Thank you. Test test test forestry diebt sco tomorrow a chiropractor chiropractors chiropracticky council I, we are out of recess. We'll take up our remaining agenda item, and has to do with amendments to our existing tree ordinance, and before you get started, pat, I want to say just a couple words, literally a couple. Some of you may know that the first tree ordinance in austin was passed in 1983, 20 years ago. Council person was margaret hoffman, she's still around, I've seen her. And still advocating for trees here in austin. So 27 years, this is the first time we've tried to amend and improve the tree ordinance. We began this process about four years ago under my sponsorship, and it has -- this is a product that has been four years in the making, so I'm beginning to see why nobody tried to amend it for the last 27 years. But we think we have a good product, definitely, no matter which provisions we adopt, it will be an improvement for austin's urban canopy. It will be an improvement on the existing city tree ordinance, so I hope everyone will keep that in mind as we go forward today. Right now we have 108 minutes of speaker testimony, people who have signed up to speak. So I would urge you as we go through the public hearing process, we want to hear from all of you, but if you feel the need to repeat the very same ideas that someone just before you did, I urge you to resist that so that we can -- if you have something new to add, certainly we want to hear that as we go through the public hearing so we can address this very important issue in an expeditious manner, and yet a thorough manner as well. So now I'll recognize pat murphy, city's watershed protection department, for a brief presentation on what we've got before us now.

Thank you, mayor and council. It's good to be here this evening. I'm very pleased to be here today to present the heritage tree to you. I am the environmental officer with -- pat, could I interrupt you?

Absolutely. I meant to recognize my council aide, nancy williams, who has worked on this product for four years, actually done a lot more work than anybody else on the second floor, and I want to acknowledge her and thank her for her hard work working with all parties. [Applause] okay. You're up.

All right. Thank you. Also here with me this evening are the city arbor eyes michael lamb biz i, mitsy cotton, from the city attorney's office, greg guernsey. Craig troxel from austin energy. I also want to acknowledge the hundreds of hours that staff and citizen time that's gone into discussions on this heritage tree ordinance and I'm just so pleased that we can finally be back here in front of you this evening to present this. In 1983 -- I'm sorry, let me learn how to do this again. In 1983 the city council passed the tree ordinance, one of the first tree preservation ordinances of its kind in the nation. The tree ordinance has remained virtually unchanged for over 25 years and has been a major contributor to preserving our quality of life here in austin. In recent years there has been a renewed interest in balancing tree preservation along with the many benefits they provide against increasing growth and densification. The urban heat island resolution in 2005 and the tree task force recommendation in 2006 sparked a renewed interest in the urban forest. These initiatives identified the need for increased tree preservation and tree planting to sustain and enhance the city's urban forest. The heritage tree ordinance is the last of the t proposed tree amendments intended to address these concerns. The council has already adopted the subdivision tree ordinance, which increased tree planting and preservation on residential lots and the parking lot tree ordinance, which increased tree planting in parking lots. We have struggled with finding the right blend of administrative and public processes for

consideration of heritage tree removals, and as a result there have been two previous versions of the ordinance that have been considered by boards and commissions. In 2009 staff was asked by council to work with concerned citizens in order to gain more consensus on the heritage tree ordinance. We had a thorough stakeholder process that was well represented by different interests in the community. The working group spent approximately six weeks considering different options and proposals for the heritage tree ordinance. In the end there was not a consensus from the working group, but there was an agreement on many aspects of the proposed ordinance. There are major stakeholder concerns that are categorized here that came out of those meetings. The primary concerns that remain unresolved were applicability or how to define a heritage tree, approval criteria or what conditions must be met to justify removal of a heritage tree, process or administrative versus public consideration of heritage trees, transparency, or the public's ability to obtain information about tree removal requests. Staff drafted a revised ordinance near the end of the working group process that attempted to strike a balance between the concerns of the working group and the city's existing resources. There have been many meetings in this most recent round of ordinance consideration, starting in september with the urban forestry board and culminating today here at the city council. This process has been thorough. Each of these boards and commissions have made recommendations for the heritage tree ordinance related to the primary stakeholder concerns that i just covered. These recommendations along with the planning commission recommendation have been provided to you in backup. As well, a final staff recommendation has been provided for your consideration that attempts to address the board and commission recommendations as well ng staff resources, permitting enforceability. If it is the council's desire I am prepared to walk through the highlights of these recommendations, but i will leave that up to you if you would like to do that or not. i think we're all pretty well familiar. If any council members would like to have a walk-through on the staff recommendation, please so indicate now. I think we can -- we can dispense with that part of it.

Thank you, we'll be available for questions. any comments, council, before we go to the public hearing? If not, we will begin the first speaker signed up for the ordinance is chris kite. Chris kite. Welcom e. You have three minutes.

Yeah, my name is chris kite. I'm not here representing a specific organization, just myself. Lived in austin about 25 years, and if we were going to talk about heritage trees I wanted to use an example of the largest live oak in austin. There is the picture of it right there. It's on a 71-acre asphalt plant in the southeast corner of town, and this heritage tree -- this tree needs this ordinance. As you can see, it's the largest live oak but it's also got this construction debris around it, and if i do this page correctly. It's sitting next to a bunch of this asphalt material. That blue tarp represents a car that's parked underneath it. Last year I used this rope to measure it. It's 21 1/2 feet in circumference. Well, pretend that's a circle, that's almost 7 feet in diameter. If you wanted to give it a big hug, all of you would have to get around it. So -- I just -- it's probably the oldest living thing in austin. The treaty oak by comparison about 5 feet in diameter and that's almost 7. It's on private property. I understand the rights of private property owners, but this is a precious jewel. This thing is probably 500 to a thousand years old. If anything negative were to happen to it a trillion dollars in fmed stimulus money would not bring it back. Maybe 500 to a thousand years under the right climate would. And just to wrap up, i understand there's all this business interests, of, no, please let me do what's right for my property. I strongly urge people to have that view.

If you're going to die someday, do you want to be proud of the fact that you made a few more dollars in your life or that you protected such a precious community jewel such as this. Thank you, and I strongly urge you to all vote yes. thank you. Next speaker is sola vega. Is peggy maseao. vega, you have six minutes.

Thank you. I'm solelya vega with the austin heritage tree foundation. We respectfully ask that you approve the heritage tree ordinance but only with the recommendations from the planning commission. We are concerned with the addition of essentials for utilities where we can both protect and the heritage tree section. We also recommend that you consider changing the [indiscernible] for all trees 24 and larger, consider a public process for the 24 to 30-inch trees, and consider reducing the trading of larger heritage trees for younger trees. To those cases when it's absolutely necessary. Austin needs to preserve its hair trees. The heritage trees should not be traded unless absolutely necessary. It's estimated that \$25 million comes from all trees in austin. Currently we are a 30% canopy but the average goal is 40%. This means that about \$17 million in benefits are lost per year, including one million in [indiscernible] and storage. Regarding preservation of forest traition balance. It's already in imbalance. 25% Of all trees are 24 inches and larger. The goal is 24% according to a balanced forestation. The forestation, 75% of all our trees are unless we immediate the goal. 44% Of the protected trees, currently 19 inches and larger get removed. 20% Of the trees that are 24 inches and larger get removed. This is a typical older tree preservation and alpine street. This is what we do in south austin, what we used to do. You can see there's lots more wooded. People kept the trees. Houses were september back, even apartments were setback. And then came sycamore. This is that alpine street. It's 95% impervious cover. Obviously doesn't belong with the rest of the community. The lots that I showed you before were on the same street. They took -- they removed five trees, only kept one, a 24-inch pecan. If you see on the upper right corner, that's the tree that's left. All the other ones are replanted. On the left bottom view, that's the left side of the development, everything was taken down. So if it's necessary for development, this is seminole, card that will, about the same, two blocks from the area. This is a wooded block. Probably much more wooded than the other one with live oaks. In this case they design around the trees. It's very pretty. It's still very high density, as you can see, but the trees are part of the design, and it's a very beautiful addition to the community. It is not that it's not high density. You can see in the picture in the upper right corner. It is very high density, but perhaps not 95%. At the bottom left they had a growth of live oaks and they integrated that into a park for the community, for the people that lived in this -- I guess they're condos. And they're going to do that in the next slide. That's the picture in the bottom right corner. They're going to save the trees and build around them. This is an example of what we can do. In the upper left corner, you can see the tree in between the houses, in between the condos or townhomes, whatever they are. It's very beautiful. Everyone has a courthouse with a tree. It belongs in the community. This is another lot on the same street, opine street. This is 404. So I'm wondering what will happen to this lot. It's one of those older lots, used to have a house, now it got sold and it's going to be developed. All these streets -- most of these streets are going to be removed. I counted 5 to 6 heritage trees of the right species [indiscernible] and they're all more than 24 inches. 5 To 6 have the ribbons so they'll probably be removed, and 5 or 6 don't so maybe they will be kept, but they're all beautiful. It's one of those elongated lots, but with some imagination they can be developed by the previous example. So the choice is ours. What do we do from here? Do we protect the trees? I think we can make a balance between development and preserving

the trees. Thank you. thank you. And while I'm thinking of it, I want to mention that if you see council members off the dais during the public hearing please be aware that there are television monitors in the back, if someone should go back to take a break, don't think they're not listening. They will be listening in the back, even if off the dais. The next speaker signed up for is hank smith. Welcome. You have three minutes.

Thank you. Mayor leffingwell, council members, my name is hank smith. I'm the president-elect of of the home builders association of greater austin. I'm also an engineer and business partner of texas engineering solutions here. I grew up in austin. Lived hee over 40 years. I've been doing engineering work for nearly 30 years. I'm here tonight in support of the staff version of this ordinance. For over three years as you mentioned, maybe four years, hba has been working with the city of austin in the development of several new updates and revisions of the tree ordinance. There have already been at least two updates to the tree ordinance in the last several years. Most recently this effort has been focused on the development of a heritage tree ordinance that you have before you tonight. This ordinance is basically the result of an extensive stakeholder meeting where representatives from across the city came together and developed a language that became this ordinance. Hba had two representatives on the stakeholder group and while we certainly don't agree with all aspects of this ordinance, and if it were written by the home builders association it would be different than it is right now, but we participated in that work group and we feel like what came out of that group accurately reflects the the feelings of a broad spectrum of the city of austin. We understand this ordinance was also presented to several boards and commissions for the consideration of those boards. In each stage of that process there were comments offered and recommendations and changes suggested. We participated in most of those meetings, and we continue to show support for the staff version that was drafted based on the stakeholder meetings. We believe there was nothing in those meetings that was not discussed by the staff in stakeholder groups and feel that was the appropriate way to proceed. We recommend you adopt this ordinance and if there are any suggestions that came out of the boards that warrant more discussion, that we refer back to that stakeholder group po consideration and brought back before you. We're not suggesting that. We don't think that's necessary. We think you can adopt what is on the table right now. I think if you asked any member of that committee, they each may have some part of the final ordinance that gives them concerns, but in the end the committee wrote an ordinance that was adopted and agreed to by everybody. We hope you recognize that home builders and homeowners have challenges these days and that the imle taition of this ordinance will have a financial impact and raise the cost of housing in ordinance. We have no doubt about that. But we think that the boards and commissions that will be hearing the variance request to remove heritage trees need direction from this council on how they hear those ordinances. It's going to be a very critical stage when they begin to hear the variances and requests to remove these trees, which they will. One of our concerns we have is opening up the public hearing process for trees over 30 inches. We think this is a risky decision to go through, and nobody knows what's going to come out of those hearings. We think if you evaluate that process for the first period of time of six months to a year and see how that process is working, we may need to come back and reevaluate that. I think this council is reasonable. I think staff is as well, and they will be doing that. We will continue to work with the city of austin staff in development of the rules to implement this ordinance and appreciate all the time and effort everyone in this process has to date. One thing, nobody puts more trees in this community than the home builders

and homeowners of this community. This is who put the bulk of these trees in. If you have any questions I'm available to answer them. thank you.

Thank you, mayor. next speaker for rockwell. Brad rockwell. Peter targemson. Peter is here, so brad, you have six minutes.

Mayor and city council members, I'm here to urge you to -- my name is brad rockwell, and I urge you to support this heritage tree ordinance, and in particular I ask you to, in addition to support what's sort of the foundational principles that have been circulating throughout the boards and commissions to support the changes that have been proposed by the planning commission. The staff's recommendations have circulated through all the boards and commissions, or a variety of boards and commissions, and they've all suggested provisions to strengthen the ordinance, and I'd like to talk to you in particular about a couple issues that are very important to the tree ordinance, the heritage tree ordinance. One is making sure there's no loopholes that prevent the ordinance from actually being effective, and making sure that there's enforcement provisions in place that actually provide an incentive or provide a means of actually protecting the trees rather than the ordinance being ignored by people because there's really no consequences to ignoring the ordinance, as the case is right now. I think all the boards and commissions have recognized the gross deficiency in enforcement provisions in the current ordinance and in the version promoted by city staff, and the way the planning commission has resolved this, as I said, let's not hold -- is they said, let's not hold everything up here today. Let's not slow everything down to work out the enforcement provisions, but go ahead and pass this, but let's work on improving the enforcement provision as soon as possible. And I've made some very specific recommendations, most of which have been favorably looked at by the various boards and commissions. So I would urge you to add enforcement provisions to this ordinance as soon as possible. The other issue is loopholes, and in the existing ordinance there is a provision that allows protected trees to be removed upon a showing that they interfere with a reasonable use of the property, and there's several problems with that language. One is it's very subjective and vague, what's a reasonable use, and there's no real objective standard. It also gets the environmental reviewer entangled in land use issues making land use decisions about what's appropriate for that lot. I had firsthand experience with that in helping try to prevent the wal-mart store at northcross mall from being plopped down. They wanted to put a big store on property that was already 95% impervious cover. The little part that was pervious, there was about 19 protected trees, at least one would qualify as a heritage tree, mostly live oaks. Because of this provision prevents a reasonable use of property, the city of austin reviewer said, well, big box store, that's a reasonable use. Plop it down there, don't worry about whether there's trees there, so I think with 12 out of the 19 trees got demolished, I deposed the planner and I asked them, i said, did you -- were you ever asked by the city of austin to design around the existing trees? Did anybody ask you to move the rectangle a little bit or put a little cut in the building or do anything different to protect the trees? No, never once, because what was determined was a giant big-box store was a reasonable use for that property by the environmental reviewer. So I would ask you to either -- probably the best solution would be just take out that provision entirely and don't have the environmental reviewer get entangled in land use questions and don't make it a criteria for -- that will allow destruction of a tree. The other provision that's a loophole in the staff version that's circulating here today, and this was added sort of very much kind of at the last moment, is a -- is a provision that allows a heritage tree

to be removed if it would result in superior tree preservation. Again, that's kind of a vague concept. Sounds good, but what does that actually mean? Does it mean the original -- the original staff version was, if you had a 2-inch tree -- or several 2-inch trees that were being protected, by removing a 7-foot wide tree, the 7-foot wide tree would be removed because a numerically larger number of trees were are being protected. I think that's a problematic revision and it needs to be improved by specific criteria so it doesn't become a loophole like the a reasonable use provision that's currently in the ordinance. So I would very much urge you to consider the recommendations by the planning commission. You have a version of the ordinance that's been drafted that's consistent with the planning commission recommendations. I urge you to vote for that, and looking forward to seeing some very significant improvements in our tree protection in the city of austin. Thank you. thank you. Next speaker is allen watts signed up for. Allen, you have three minutes.

Hi, everybody, my name is allen watts, and I've got a presentation too. Okay. My name is allen watts and I'm kind of the unfortunate discoverer of the oak hill tree disaster that happened back in 2008 and I'm just here to show my support for the tree ordinance, with the planning commission additions, and I just wanted to kind of show you-all -- this is what our current tree ordinance gets us, then we're in serious need of some help. So this is back in 2008, one of the piles of trees that i came across -- across, and that's probably -- the one I'm sitting on is probably the biggest in the bunch. And this was about one of the four piles of oak trees that were cut down. And so there were a thousand inches of class 1 protected trees that were illegally removed, and they were only supposed to remove four of the protected trees out of the two dozen that they did clear, and paul roberts said it was the worst tree kill incident that the city had seen since the ordinance had passed. So this was one of the biggest oak trees that i saw. That's my measuring tape on it. And this one was about -- i think it was 10 feet around in diameter, and this was only one of the four piles that were -- was left when i came across the site. And I used to go to this -- to the site with my dogs, and I mean, you know, we talk about the trees, like oak hill at the y, that are trying to be protected. These trees are huge. I had never seen the size of these oak trees in austin before. Here's another picture of a pile. You know, I mean, the trees were just massive, and this is one that was supposed to be preserved that was still cut down regardless that it was even in the plan to be saved. And so these are some city of austin photographs after it happened. So as you can see heerks the soil is pretty good -- here, the soil is pretty good. There's actually some organic stuff there, and i went back a few months ago in october to take pictures, and now the site looks pretty much like a waste dump. There's piles of materials everywhere, there's like mulch, tires. They planted about 120 trees, saplings, that are not native, pear trees in there, I counted about an dozen had died, and they hadn't been taken at all. The mulch is dead and gray and the soil is almost all washed away because there's no civilization, you know, because after the trees were cut down. So I think, you know -- just going to the site and seeing, you know, this is where we have gotten on our current ordinance, you know, I'd really urge you to, you know, beef it up as much as possible because this is really just unacceptable, in my mind. Some other pictures of it.

Thank you. so allen, you don't think that what was done out there was legal under the current tree ordinance, I hope, because it certainly was not. It was a tragedy and it was a complete outlaw operation. Illegal now before an amendment to the tree ordinance is passed. So I want everybody to understand

that.

Okay. city prosecuted that case to the full extent of the law, the limitations of state law that we have to live by. We lost that case in court. But the point is, what was done out there, as bad as it was, and we all believe so, was completely illegal right now, will continue to be illegal under anything we do tonight.

Right. thank you.

Thank you. next speaker is allen watts. -- That was allen watts. Lorri widelick. If I said that wrong, please correct me.

[Inaudible] to who?

[Inaudible]

mayor leffingwell: okay. Remind me at the time. So the next speaker is carolyn palima, signed up for.

Mayor, council members, I'm carolyn palima, president of the hancock neighborhood association and I served as chair of the tree task force. The task force was convened to review, develop and recommend to council policies and procedures related to the city of austin's tree trimming and removal program. Recommendations of the task force included recognizing trees as essential urban infrastructure with active citizen oversight and strengthening tree ordinances and mitigation practices. These recommendations are consistent with the value of trees recognized and the findings of other city of austin environmental initiative, such as the urban heat island mitigation project, the austin climate protection plan and austin energy's greenbuilding program. It is well documented that our urban forest reduce lowe lower energy consumption, and particle removal, as well as contribute to sense of well-being. Preserving large trees is a particular importance because the level of benefit in these areas increase significantly when a tree reaches the size of 24 inches in diameter or greater. Finalizing that heritage tree ordinance has engaged a wide range of our community. In july 2009 the mayor convened a working group of representatives, the composition of which pat presented in his presentation. If there is one message i hope was conveyed to fellow participants it is that a heritage tree ordinance is not about impeding development but rather about moving towards smart and sustainable development. The process has also -- has benefited from careful review and recommends made by forestry board, the environmental board and the planning commission. I support the planning commission's version of the ordinance, which incorporates many of the recommendations made in that the language of the ordinance needs to be concise, based on scientifically accepted standards for measurement and speak to the intents of the ordinance, which is to preserve our healthy large trees, trees that cannot be replaced in our lifetime. Transparency and notification need to be part of the implementation. The reaction to recent incidence of tree removal has shown that austin citizens care about their heritage size trees. A heritage tree ordinance is needed to ensure preservation as a recognized component in the planning process. And in the long run contribute to a livable austin as we grow into an environmentally complicated future. I hope we can see the planning commission version of the ordinance passed tonight. It's been a long time coming. So thank you. thank you, carolyn, and thank you for your service

in the tree task force. Donette kamitai? Donette? Welcome, you have three minutes.

Thank you, mayor. Good evening, mayor, mayor pro tem and city council members. My name is donette komenti and I am a member of the planning commission and I'm here to speak to you about the planning commission recommendation and answer any questions if you have them. Our adopted vote was 7-1. I first, though, want to thank the mayor, nancy and city staff and everybody who worked so hard to bring this really important ordinance forward. The planning commission made eight recommendations for changes to the ordinance that was presented to uses. Only a couple made it into the revised staff recommendation that is before you now, and four of the most important recommendations that were key to strengthening the ordinance were not included. It was pretty surprising to see a couple of things added to the staff version of the ordinance that were not brought forward to the planning commission. At our hearings commissioners specifically asked if there were any exceptions for city entities, were told that there were none, yet the ordinance staff is presenting today includes noted exceptions for austin energy. I would offer that the ordinance already includes necessary imminent hazard provisions and ask that you not grant the city exceptions from its own ordinances and its own process. The other issue that was not in the ordinance we reviewed was language allowing heritage trees to be removed if the result would be superior overall tree preservation on the site. Staff replaced previous tree trading language with this new provision. Superior is not defined so this is nebulous and could have unintended consequences working against the intent of this important ordinance. The planning commission recommended that heritage tree measurements be consistent with protected trees. Personally I'm very concerned that species like live oaks often branch lower than 4 1/2 inches and some of our oldest and grandest trees will not be protected with the single stem only measurement. Finally our recommendation on was compromised. Attempted to put it into the process but not be too burdensome. We supported the staff recommendation, including approval for all 34 to 40-inch variances with the -- be brought to the board to give transparency and allow the public to provide feedback that might be relevant to staff's decision. I would ask that you make sure there is some transparency in the process for all trees that meet the definition of heritage tree. I know that staff has concerns over the ordinance and the burden that it would impose. I will say that affected board, planning commission, zap as well as the urban forestry board are all prepared to take on the additional burden as evidenced by all their recommendations. Perhaps there could be review in six months to a year or something like that to assess what the burden actually is since there seem to be some varying opinions and we won't really know until we get into it. I have one other quick comment if I could be allowed to finish, and that is that without adequate enforcement measures, this ordinance will be completely ineffective. While those issues are not vetted enough to be included in the current ordinance, the planning commission has initiated a process to look into what can be done and recommends eventual inclusion into the ordinance. Thank you, and I'll be happy to answer any questions if anybody has some. thank you, ette. Next speaker is harry savio. Harry sario signed up for.

I'm heir harry savio, I'm the executive director of the home builders association of greater austin. You said the staff spent four working on this ordinance and we have participated for three, and the staff has man months, huge amounts of time in reaching the balanced ordinance which is before you and which we, as hank said previously, are here supporting. Our association met in good faith and we support the staff recommendations because to change now would really not be true to the process. It wouldn't be

fair to the pments, it wouldn't be fair to our members that sat down and participated in the stakeholder process. It would be disingenuous on our part. Along those lines we also oppose any amendments, including those by the planning commission, which were not based on any balanced input. Those processes limited opportunities for practitioners' comments to three minutes from the podium, and you simply can't have any reasonable dialogue in that kind of venue. To have stakeholder process and then go back to the -- through committees again undermines any incentive for participation by those most aware of the practical impacts of this legislation. You have a well-crafted ordinance. It strives to achieve a balance. Our president-elect, hank smith, said in the beginning, it's nowhere near anything we would draft or recommend ourselves. However, we respect the effort of our volunteers. We respect the work of your staff, and therefore we stand here again today recommending your adoption of this document as presented. Thank you. thank you. Next is andrew hawkins. Is karen creps in the chamber?

Here.

Mayor leffingwell: okay. Karen. You have six minutes.

Thank you. I had a presentation as well. Thank you, mayor leffingwell and city council members. My name is andrew hawkins with save our springs alliance and sos alliance supports the planning commission version of the heritage tree ordinance, and I'd just like to go over the public process issue. I know that's been a big issue for everyone. And I also -- well, before i get there I'd like to thank everybody who worked so hard on this ordinance, and especially our citizen boards. They spent an awful lot of time on this and I think they made your job a lot easier by delivering to you what we think is a compromise in the planning commission version of the ordinance. Now, concerning public process, the current draft -- and by that I mean the current staff draft, the heritage tree ordinance has no process -- public process if it's a heritage tree between 24 inches and 30. And this is -- all the city boards who reviewed this recommended that we have a public process and fill this gap and not have a two-tiered system. So we think it's been carefully considered and we think it's a good idea. I'm sorry. And, you know, I think there's been some misinformation provided when people say that, you know, every community around us does this administratively. That's not the case. Cedar park does have decisions like these go to their city council, as you can see on this slide. So does pflugerville. Those cities have decided it's important enough of a decision that their city council consider it. That's not to say that there may not be cases when the city arborist can make the decision, so these ordinances -- these ordinances from pflugerville and cedar park will often provide an administrative ordinance for something like a dead or diseased tree, but when it comes to more subjective considerations it's city council, and in our case I would submit that our city boards that should make those decisions. I think this also fits with the original intention, and the march 2008 draft of the heritage tree ordinance. Those first two criteria i bolded. Those would be only for the land use commission to consider in that original draft, and those are very subjective criteria. There might be an administrative variance from dead or diseased, but for very subjective things it's appropriate that it go total land use commission, and i think it's actually a more efficient way to handle some just a citation to some other cities, of course this may be expected, in portland, oregon, any person can appeal a decision to approve a tree removal. In atlanta, georgia, they have established a whole tree conservation commission, and people can appeal administrative decisions to that board. Of course atlanta and portland are very large cities, lots of trees, and they've

been able to make this work and make the public process work, and I think -- process work, and I think those are powerful examples. I also think another powerful example is the process we went through last spring with the trees at Barton Springs. We really feel that a public process does lead to better decisions, and I think this is a great example of the city and the community coming together a lot of strong leadership at the city and parks department, strong leadership on our city boards, active engaged citizens and community groups, and the end result was that we were able to save a lot of trees and come up with a plan for the future. And so I would say, you know, this really is about working together toward tree preservation. I think it's a bit cynical to say that people will want to fight tree decisions and that will be a straw man for fighting a particular development. I don't think that's what it's about at all. This really is about tree preservation. I think it's cynical to say that because it says people don't care about saving trees and they really do, and that's what we really want to do with this public process and that's why we think it's needed. This is just some more slides from the Barton Springs trees and Don Gardner educating the community. I think there's a lot of positive things that come out of these public processes. And also I wanted to point out that protecting our trees and, you know, possibly expending more resources to have a full -- full public process should fit within our goals of the climate protection plan. I've heard it said at times that, you know, maybe we didn't want to have something that would require an FTE or a partial FTE. I think the compromise we came up with the Urban Forestry Board review was geared toward alleviating those concerns because the city arborist already goes to the Urban Forestry Board. So cognizant over those concerns over additional resources. But, you know, if there is, say, a partial FTE, though it be required, I wonder if it could be funded through the climate protection plan. It's obviously very important that we protect these trees for our climate, and considering, you know, the millions and millions of dollars worth of economic health and environmental benefits, I think, you know, there's no question, if it takes a little bit more resources, that we should do this. And just concluding, I would say please provide the public process for all heritage trees 24 inches and above, and please adopt the recommendations of the planning commission, and I'm confident in the long run that having a process like this will lead to better decisions and save more heritage trees in our urban forest. Thank you so much. Thank you. Next speaker is Tom Hays. Tom Hays is signed up for. And you have three minutes.

Thanks for the opportunity to speak on the tree ordinance. My name is Tom Hays. I'm the science director for the Greater Edwards Aquifer Alliance in tree biology. And I first one to just recommendation that you change the staff ordinance to reflect the planning commission's recommendations. I participated in the stakeholder groups and the staff's ordinance version is just -- doesn't reflect the consensus from those many meetings. But I really want to emphasize climate change as a reason to have more effective protection of these trees. I've done research for EPA and other groups at universities, looking at the impacts of climate change on trees. And a mature tree can persist with a very different climate much longer, but where you have the effects is when you try to replace those trees that might be cut or die, is the younger trees. You're not going to get the same trees back. The best climate models, and actually I have copies of the paper that just came out in science, but they predict that Austin is going to basically be in the Chihuahuan desert within only four decades and we won't be able to replace these live oaks and other species that we have at this time. So if we want to try to counter the effects of climate change we need to maintain these trees. They're going to be very important, you know, for air quality attainment, for energy and water conservation, for increasing percolation into the

recharge areas and many other functions that these trees do cover. And very quickly, I just want to say that we need to measure heritage trees the same way that we measure protected trees, multiple stems. There should not be any difference, and we should not be approving this latest version of the twigs for trees provision that was unanimously by two boards and the commission asked to be removed from the ordinance, but now somehow comes back. Also, we need to do what some of the larger cities, including new york city does in terms of mitigation, and they say when you remove a tree, they replace that tree with equal basal area, which is a footprint of that tree. That's the way foresters and arborists measure, that's how they measure -- arborists, basal area diameter doesn't revolve it. The species list which has been an ordinance. The same species -- many of these -- half of these species never attain 24 inches in diameter. A couple of these species are shrubs. We need to have a more effective species list. It's -- it's insulting to an arborist to see this. Enforcement mitigation should be part of this. thank you. Next speaker is carol lee. Carol lee. Welcome, you have three minutes.

Thank you, mayor and council. My name is carol lee and i want to thank you for initiating improvements to our tree protection and also thank all the people in the community and staff who worked to haggle out all those changes. I do think the various boards and commissions' recommendations are some extremely important additions that need to be addressed, and also the austin [indiscernible] council resolution, which also echoed many of those, but one which hasn't gotten much emphasis is protecting the native species that really add to our natural heritage that never reach these grand states, and certainly the old huge grand trees are important, but on the other side of the fault line you find a very different topographical and geological environment, and there's about 21 species that will never in hundreds and hundreds of years reach that size, and our hill country is getting deforested. There's no protection and there's no enforcement. Last june after patrick murphy gave his briefing on the heritage tree ordinance to the council, I -- it sounded so rigorous and strenuous on the surveying and inspection during and before construction, so i grabbed landscaping plans for la dera bend, which came through as canyon ridge pud to the council, and surveyed the trees on the limited construction and within the property, and we found that over 50% of the trees that were supposed to be retained were removed. And it's quite a different development without those mature trees. And it's not unique. I think I can take the plans for just about any development out there and we're getting some real clear-cutting. And the size may not be significant, but it's very important to the habitat that's out there and the environment and for all the reasons that we all appreciate and know the benefits that trees provide. So please consider beefing that up as time goes on. Thank you. thank you. Dorothy richter. Dorothy richter. Welcome, dorothy. You have three minutes.

Thank you, mayor. Don't need three minutes. I strongly urge you to support the ordinance variance of the boards and commissions. It really protects our trees, and I hope you pass that ordinance because I'm getting too old to stand out in front of a bulldozer, as I did 20 years ago. [Laughter] at the hyde park fire station. [Applause] so give consideration to the best ordinance that we've got. Thank you. thank you. We're all forewarned. mayor, your -- ms. richter. it was ms. richter. Now we'll go to the speakers signed up in opposition and the first speaker is jeff howard, michael wilt in the chamber? Okay. Janice cartright? Okay. So jeff, you have nine minutes.

Thank you, mayor, good evening council members. My name is jeff howard. I am the vice president of

the real estate council of austin, and first of all let me say we sincerely -- me say we sincerely appreciate all the time, the staff and the boards and citizens have put into this effort and i appreciate the opportunity to be here tonight. I have been involved in the tree ordinance for at least a couple years now and have followed the progress of the tree -- this tree ordinance and its two companions since it came out of the original task force, which did not originally have business community as part of that stakeholder process, but since about 2007-2008. And since that original proposal was presented, rica has consistently voiced its support of a heritage tree ordinance with stronger removal requirements, stronger mitigation and stronger enforce him. Remember also, I think in late spring of 2009, we supported the subdivision -- the residential subdivision ordinance and the commercial parking lot ordinance, both of which support the urban canopy by requiring additional tree plantings. So let me be very clear. Rica is not against additional measures for the preservation of heritage trees. In fact, we support much if not all the ordinance that's in front of you tonight. We are here tonight, therefore, not so much in opposition but because there are elements of this ordinance that we think are not necessary, unduly burdensome and will result in some unintended adverse consequences, and so we want to urge you to consider some alternatives that we think will make this ordinance better. And I think you see behind me and along the wall many of the business and community leaders who share the concerns that we're expressing, so I'm here speaking for all of them and for all of those that aren't here but that I expect you will be hearing from in the future. Let me continue by taking the 30,000-foot view, or in this case a 10,000-foot view. As you can see from this slide, before development there aren't that many trees. Austin used to be a lot of ranch land, a lot of pastureland in some of our areas, and it's with development, as we see in this slide 40 years later, and growth that folks start planting trees in our subdivisions and trees begin to grow. It's our grandparents and the trees they planted that have turned it into the urban forest, and what I'd like to say about that is that this is exactly what this community wants, a vibrant urban canopy, and it can be done with reforestation. Just like 40 years ago, it's going to be the landowners, homeowners and developers that plant today that will be providing the heritage trees for the next generation. Now, as I stated, we -- in the real estate community, deeply value trees, and we want to see our biggest and best trees preserved and it's not just about planting new trees. So first let me be very clear about what our difference of opinion is not about. Our difference of opinion is not about that tree on pat's first slide, or his last slide, the really big beautiful trees that I think we all agree, and there's -- everyone in this chamber would agree, needs to be preserved. In fact, reca fully supports the measures in the ordinance as it would apply to those trees. Those trees are iconic, they are truly heritage trees, and they ought to be preserved, and our proposals would actually preserve those trees that pat showed you. What this -- what our difference of opinion is really about is the trees on your monitor, 24-inch and 30-inch trees. These are important trees. They are significant trees, and we ought to preserve them, but these are also trees that you would see in many, many back yards, many front yards, many parking lots of small businesses wanting to expand, beside homes that maybe someone might wan remodel, along our commercial corridors that we might want to develop. Instead these trees are numerous and they're everywhere. We hear so much about these represent only 2 to 3% of our trees. However, there are millions of trees in this city, and there are thousands and thousands of these types of trees. Make no mistake about it, this ordinance will affect hundreds, if not thousands, of sites in the city. We can talk about specific numbers that are based on some staff analysis, but the simple fact is the magnitude of the change you are considering is truly great, and respectfully, we don't know that --

and we're not entirely convinced that we've studied all the potential impacts to the community as a result of this ordinance. Now, despite this concern, we recognize these are significant trees, and where we have concerns is only with respect to the public hearing requirement of their removal, and we've been consistent expressing our concerns for many, many under the current proposed ordinance staff estimates that 45 hearings will be heard each year, that's on-site plans alone. It does not include subdivisions, building permission, cip projects, general permits or austin energy requests. I think if you add those in this number could possibly double to 90 or 100 variances in a single year. These public hearings will add two to four months to the process and increase consultant fees and interesting carry costs and you'll hear more about that later, but more, these public hearings will be entirely discretionary decisions by a politically appointed board, with volunteer board members that have only limited time to review the details and intricacies of a development plan that took many, many months to prepare and even longer to review. We are concerned that this may not be the best circumstances -- set of circumstances for making objective, well-informed decisions. We also believe that any tree sought to be removed could very well become a tool for opposition to a project. Instead of just being about the trees. It could turn 90 cases a year to 100 cases a year from being administrative decisions to being zoning cases as the tree becomes a basis to simply oppose a lawful and legitimate use of the property. -- Lawful and legitimate use of the property. We think -- and we suggest a better way, that could promote the urban canopy, help avoid delay and potential for abuse, and that would -- and would promote the urban tree canopy. Here's what we support. As I stated, we supported the first two tree ordinances that came before you last spring. We also support having a stronger removal requirement for trees 24 inches and 30 inches. We support increased mitigation for the removal of big trees. We support tougher enforcement to prevent bad actors. We support a tree list so that there is transparency and predictability, and then on the public hearing aspect, we support having a public hearing for trees, really, really big trees like the ones pat showed you, in all circumstances, but for trees that are 30 inches and above but not as big as those, we suggest that you have a public hearing process except in three situations. The first exception would be for small lots, because they bear a greater burden. A tree that is large has a big drip line, a big canopy, and it impacts smaller lots disproportionately more. We recommend an exception for core transit corridors, because the council has a stated public policy that we want to encourage denser urban infill along those major corridors. And lastly, we recommend an exception for what we call super-mitigation, of at least 4 to 1, and the reason for that is trees grow, and over time a planted, irrigated tree will grow quickly, and you'll have many of them, and you will achieve greater basal area of more canopy by having greater mitigation. We think that's the goal, is to further and promote the urban canopy and a super-mitigation standard would do that. Now, these exceptions would not apply -- or would only eliminate a public hearing. It would not apply to any of the other factors. You'd still have the strong removal criteria. You'd still have the strong mitigation requirements, and we'll still advocate a stronger enforcement. Let me say in conclusion that we think this alternative is prudent, it's fair, and in the absence of any study of the economic impact this ordinance will have in our opinion it's the best way to avoid unintended adverse consequences while furthering the goals of heritage tree conserve aig. I'll be happy to answer any questions you may have. thank you. Next speaker is peter sezaro. Is jean mather in the chamber? Jean mather?

I'm sure jean meant to give me her time. That's okay. she's not in the chamber. [Laughter] so she can't

donate her time to you. And I think pam mader? Pam mader? Melissa nesland? You have six minutes.

I'm peter seznero and I'm head of the commission for the real estate council of austin and I participated in the task force and was involved in kind of all of the commission hearings, including the electric utility commission that we went to. And there's been comments regarding the staff ordinance along the way and discussion at the commission level regarding three issues that I want to be clear rica does not support these revisions to the ordinance. One was a multi-stem ordinance or multi-stem measurement. According to mike limbizi in the hearings along the way, a multi-stem measurement would double at least the number of hearings and commission meetings that would take place, and it would also pick up trees that really aren't heritage trees. I mean, if the purpose of this ordinance is to honor and protect the truly iconic trees here in austin, i think we're picking up more by having a multi-stem measurement for the heritage trees. The second one is a revision to the protected tree requirement that I've heard referred to as a loophole, that it can only be removed if it prevents all reasonable use of the property. I do not think this is a loophole, and I think if this change is made it carries severe consequences for austin. In the course of the task force meetings an example that pat murphy gave, what happens if there is a major commercial intersection here in town and someone interprets that a single-family house could be located at that major commercial intersection? I think -- and they viewed that as a reasonable use. Well, that type of property in that location would be ideal for the city of austin. It would improve the tax base and it would encourage the type of development that austin is trying to promote now in this tough economy. I think if the revision was made to all reasonable uses, it would make development in real estate be resolved up at 10th and guadalupe and people would have to incur additional expenses. They would have to hire good rockwell and andrew hugins to go and litigate if the trees should come out or not come out. The final concern that i want to emphasize that we do not support is conducting public hearings for trees that are 24 inches. This has been discussed at each board and commission, and it seems inconsistent with some of the task force discussions. If you look back to the city over a hundred years ago, it was mostly ranch land with big bald spots and groves of trees, but over time and over as austin has grown, these trees have come in. These trees have grown and created a beautiful canopy that's here in austin. We're not going to prevent the illegal action that we've seen tonight, but real estate has allowed these trees to grow and allowed these -- this beautiful tree canopy, and increasing public hearings down to 24 inches is going to end up with a tree agenda. We're going to have more commission meetings, more meetings with the administration, and I think it's going to increase the cost both for the citizens here in austin and make it difficult for people that are trying to develop affordable projects here. That's all the comments that I wanted to make about some of the recommended revisions that rica does not support, and I'd be happy to answer any questions.

Any questions, council? Thank you, peter. The next speaker signed up is keith donaho. Hi, keith, welcome. IS nancy McDonald in the room? And andy pastor? Great. You'll have up to nine minutes.

Thank you, my name is keith donahoe. I am the president of the real estate council, and i wanted to bring up a couple issues that we have not talked about tonight, and more in the lines of the -- let me do this -- more along the lines of the cost and the financial impact of what we estimate this current draft of the ordinance could potentially incur. The city's zone affordability impact analysis estimates that a variance process will take eight to ten weeks. This will be extensive, and there are -- there are interest

and carry costs associated with time plus consultant fees and potential redesigns that force people to go back to the drawing board. It won't be cheap and the people that will bear the burden of these costs are people like homeowners looking to add a unit for an in-law, other family members, small businesses, looking -- hoping to expand or apartment developers who are looking to increase the affordability -- or affordable units in the city of Austin. Austin already at risk of being one of the most expensive cities in Texas, will continue to get more expensive. All of this may happen in small increments, but they do add up over time. I'd like to give you some examples of real potential costs our members have come up with. Let's assume for a minute that you do get the administrative approval to remove the 24-inch tree on a single-family lot. Mitigation is 3 to 1. That's \$175 an inch. It comes out to \$12,600 in mitigation cost. Let's assume for a minute that you have to go through a ten-week variance process to get that. That's another \$5,000 just for a single lot application. If you -- if you're not -- if you're lucky -- or unlucky and don't get the variance, all of a sudden you have to go back to the redesign process, which could add another 15,000, or it could end up losing -- the losing the use of that a lot and a significant devaluation of the lot itself. Commercial lots, mitigation would be the same but for -- the mitigation process, it stacks up faster. \$100,000 in some cases. Let's assume you lose that variance request and the tree is sitting in the middle of a prime lot like block 21 across the street. Those costs are staggering. But this scenario doesn't apply to just block 21. It could also play out on corridor lots where we're trying to deliver more affordable units. In the city before us, instead of trying to figure out how to reinvent the tree canopy, the city will be left with trying to figure out how to eliminate affordable units on a particular development site. At one -- our point -- the point of all of this is to show that nobody has really done the economic impact analysis of this ordinance or any of the other ordinances over the last 24 to 36 months that we've implemented. Those costs add up and they add real dollars to the affordability of Austin, Texas. I encourage us as a city to step back and take a look at those economic costs on a global basis, not just on an individual ordinance basis. Lastly, I want to talk about property rights. We've talked a lot about tree preservation, protection mitigation, enforcement and penalties, but the entire debate rarely has ever come up, but what you're talking about with this ordinance is a potential impact to the individual property rights. At the zoning and planning commission hearing Tuesday, Commissioner Baldridge said she lived in the neighborhood with 800 units and she guessed that every lot had at least one 30-inch tree on it. That's a lot of heritage trees. What if a homeowner wants to add on to provide space for a grandparent or a child and that -- grandparent or a child and it encroaches on a tree. My guess is that could happen pretty often in a neighborhood with 800 homes. We are going to ask that that homeowner come before the land use commission and defend their decision to remove a tree, a tree that the community didn't plant, didn't maintain and will likely not pay to help relocate. This ordinance treats trees that are on private property like public property but doesn't require the public responsibility for those trees. Take that into consideration as you consider the public aspect of this ordinance. Thank you for your time.

Thank you, Keith. Next speaker is Eric Steen. Is Eric Steen in the room? Next speaker is Paul Lenihan -- wait, there's Eric. No worries. Welcome, you have three minutes. [One moment, please, for ] covered by these trees or I would like to lose these trees or even consider removing them. However, I fear that this ordinance could in the end be detrimental to me and my neighbors. As a homeowner who would protect a tree, I'm concerned that the new ordinance could jeopardize my property and perhaps my family and as it is with all things, some day these trees will come to the end of their lives. As I read this ordinance, if I need to have a tree removed, if within of my arborists comes out and says this tree is about to die and it's

going to be a hazard, I have to submit that to the planning and development review department and wait for them to send out a city arborist to determine if a tree the a 'em tonight hazard. I will not be able to remove the tree before the public process is completed n the case of a storm coming through while waiting to process or if I'm ultimately denied a permit and the tree was to fall on my house, who will pay for the repairs? Or if within of my family members is injured? I realize this is a hypothetical situation, but based on the difference of opinions regarding the trees at zilker park and barton springs pool is this unrealistic. Another concern I have is whether or not the city staff will be able to keep up with the additional work this will bring about. I've heard the staff state in other meetings that they do not need to [inaudible] based the numbers arrived from the 2007 site plan. This ordinance will affect more than new construction sites. And then again the main purpose of this ordinance is to make sure requests to move heritage trees are thoroughly examined and if possible find alternatives to removal. But it does not change the consequences of removing a tree without a permit. I understand that outside this ordinance there is a proposal to change the mitigation policies that would require planting trees with diameters a total of three times the diameter removed or paying \$150 an inch. But that won't help with the trees who are illegally removing a tree can be a class c misdemeanor and carry a fine -- [buzzer sounding] -- which is the maximum allowed by state law. I would ask you put some teeth behind that before passing an ordinance that could tie up city staff and keep them --

Mayor Wynn: Thank you. Next speaker is paul linehan. Welcome, paul. Three minutes.

I have mike brown signed up to give me six minutes.

Mayor Wynn: Is mike brown in the chamber? Okay, you have six minutes.

My name is paul linean and I'm a practicing landscape architect in austin for the last 30 years. And I guess my biggest deal is I sat on the task force this summer and I'm sure I was the guy who came in and I started at 36 inches because I said i think a heritage tree ought to be at least 36 inches and, of course, no one -- I was one of the fewer in the development process that were in those meetings. There was like 4 to 20. But we all respected trees and we all wanted to protect the trees. When I heard numbers from 2007 when on the site plans that there's 650 trees that the city saw that were 24 inches and above, and I just finished doing a preliminary plan provision in the city of georgetown that saved eight 36-inch trees it became clear this had to be an administrative process. I have been working with the staff staff over 30 years to protect trees, I've revised site plans, building plans, whatever it took to save trees and the sign has come to me to protect trees. I remember the time joe calibrezi said we need to save that grove of trees and we did. And I passed that on. Anyway, and when I was 26 years old, I bought an at windsor and exposition. I picked it up and moved it to a lot at lakewood. I bought the lot because it had 24 trees. Hi to cut down a live oak to get the house on it. I moved it but I sank three of the major trees on the site. Before I left that site, I had replaced that site with at least 12 trees that grew to 8 inches and above before i left. So we're all trying to get trees on the site and protect, but when you start talking about site plans, preliminary plans, final plans, building permits in the city of austin, you're going to start overloading the public hearing process. I'm going to be down here all the time asking for heritage tree amendments. This is an economic concern. The city council passed many, many years ago that we need to have -- when we pass ordinances like this, we have to have an economic analysis.

I went and asked plan zap the other night have we done economic analysis, the city energy department hasn't done one but they know there would be a million dollar fee in a free falls on a major transmission line and does a blackout. The city department needs two or three more people to enforce this ordinance and i don't think there's been required economic analysis. What's going to happen when the legal department has to start doing property rights take because somebody had a tree on their lot and they can't build anything on it and can't get an appeal and they can' get a variance. We have tried to suggest that mitigation is the key. Get out of the public hearing process. Allow us to plant three to one you, four to one, but replace the trees. We are here to protect trees. Trust your staff to go in and protect these trees, make sure we don't cut them down, but do not get us in before zap and planning commission and the environmental board and have to come in and argue this because I can plant a whole lot more trees than what my consulting fees are going to cost to come in and get these variances. So please, I'm totally against the public hearing process. It's not affordable. It costs. You haven't done your economic analysis. You really don't know what it's going to cost the city. I can just hear, we can't cut down that tree because that's the hanging tree my grandfather has taken. That's an historical analysis. We can't take that tree down because it's been in my backyard. It's not my backyard and i want that northcross mall to go away. The restaurant. How many trees -- threadgill's today and I was walking out, heritage tree, heritage tree, heritage free. I was at the omni hotel, in front of it heritage tree, heritage tree, heritage tree. These are trees I've planted in my life time that are heritage trees. Please let us do this as an administrative process. We're all behind the tree ordinance. I am totally upset about the people that went and nuked that site on old bee caves road. There is no call for it. We want to protect the trees. But you have a project coming your way that's a \$114 million project called the waller creek project. It has over 300 trees out. I've looked at that site plan and there's two trees that are 30 and 36 inches. There's two others that are 38 and 34 inches that don't meet the protective tree ordinance setback. Please let the staff handle it. Pleases do not burden us with an ordinance you do not know what the economic consequences are. Thank you for your time.

Mayor: thank you. Next speaker is jim gisler. [One moment please] in addition to the fact that within a few years replacement trees will provide greater shade, canopy and co 2 sequestering, within a couple of decades they too will become heritage tree and further complicate this development and redevelopment processes of the city. I appreciate your consideration of these issues and can answer any questions. You may have. Thank you.

Mayor Leffingwell: Thank you. Next speaker is -- first name spelled a-a-n coleman. A lot of times they are misspelled on the computer so I wanted to make sure. So tom trekell. You have six minutes.

Not the first time my name has been misspelled. I'm property of coleman and associates landscape architects and I've practiced for 29 and I think paul has practiced for 30. I have worked with the landscape code and the tree preservation code every day of my professional career and have conservatively processed over 500 plans. And I have drawn up site plans that represent the planting of thousands of trees and preserved trees. In 1983, I worked at the same company with pat murphy when he was the arborist. We worked together on the arboretum project when the preservation was plan was first adopted and that project is still seen today as a great preservation success. So our ordinances work and work well. I believe without a doubt the success of the tree preservation codes as they are today is

the number one reason austin is recognized by other cities as a tree preservation success story and a city to emulate. Enthusiastically support the intent of the heritage tree ordinance. Our largest and most majestic trees should be elevated in priority and preservation. These trees deserve our greatest preservation efforts and a process which ensures that all options have been considered and exhausted before these trees are allowed to be removed. But I fully oppose the public hearing process and I'd like to give you three reasons why. As a landscape architect and site planner. The first reason, the tree preservation process is very complex and a multi-layered decision. I think most of us think of about -- think of a tree on a site like some of the slides we've seen today. I think we think that this process will give everyone in this room the opportunity to say yes or no of whether a tree should be saved or removed. By simply remove ago utility line, relocating the project or even just moving the project to someone else's backyard. I would like to give you a hypothetical example. Let's say, for instance, a new elementary school project saves 11 out of 13 heritage trees. I as a consultant have determined that two of the 34-inch trees should be removed because it would cost the school district over \$275,000 to relocate a major storm line. Or that the footprint causes the removal of these trees. But if I move that footprint over I've impacted the trees around the playground. Furthermore, let's say 75 feet from the situation there are two trees that are being removed but instead there are five 20-inch trees right next to it altogether constituting over 100 inches. Which is the better decision? And what if the city arbor is agrees this is a better tree preservation plan? Does my project still have to go through the public process? The second reason, I'm very concerned the heritage tree will be perceived as a liability and not an asset. If a project does an excellent job in tree preservation but constituent removal the heritage tree, does it still have to go through the public process? If so we as consultants will hear this from some people and for example, whatever you do, save those three trees over 30-inch in caliber even if you have removed -- I don't care how much it cost to mitigate those trees. I can't afford the time, money or the public process where i am out as a tree killer or reremover. It is feasible our success could be substantially digressed if we are making the singular reason for choosing one tree over another. This is in direct opposition to sound tree preservation processes. Third reason, even exceptional tree preservation project will not be rewarded. I'm going to give you a example that's not hypothetical. It's the shopping center on i-35 and slaughter lane. This project preserved or transplanted over 90 inches of all the trees on site and most were heritage tree sites. The transplant costs for eight trees was over \$300,000. All of these trees that were transplanted are flush issuing today. All the other trees plant on the the site exceeded city city code significantly. There was a common area nestled among majestic trees, a \$200,000 playscape, a \$100,000 water feature and outdoor stage, but yes, one help tree was removed. Just one. This project was awarded the 2007 state of texas tree preservation award by the arbor culturist society of texas and won a 2008 texas chapter american society of landscape architecture award for the same reason. It won a national award in louisville, kentucky, with plant it, the nurserymen's association. Again I accepted that award on behalf of my client and the city of austin's tree preservation ordinance. But under this ordinance too -- but under this new ordinance, this project too would be subject to a public hearing even though it's done that well. Is that how we want to promote, reward and encourage heritage tree preservation? That no matter how well you do, no matter how hard you try, when you have exhausted all viable options, even our own community projects like waller creek do we subject our best efforts to the expensive, timely public process? In summary, no one wins a tree removal argument. No one I know is pro-tree removal. No one in this room is. So it is impossible to

defend -- [buzzer sounding] -- unless a person wants to go with you and visit that site, touch every tree affected, sit side by side with all parties involved including the city through the grueling site planning process.

Mayor Leffingwell: And your time has expired.

Can I summarize?

Mayor Leffingwell: You may not.

Thank you very much.

Mayor Leffingwell: Thank you. Next speaker is John Noel. John Noel? Is Miguel Mead in the chamber? So you have six minutes.

Thank you, Mayor, City Council. To honor the Mayor's warning earlier that repetition does your case no good, I think that's what you are trying to immaterialize, I'm going to be a little shorter. I have crossed out most of my speech here. I'm an engineer and I process a great many site plan applications and other kinds of projects through the city. And I'm appearing in favor of tree protection, as Ann did, but I have serious concerns about this ordinance. So one of the reasons I think that our existing tree ordinance has not been modified for such a long time is that it works really well. The characterization earlier that the staff lets anybody cut down any tree that they want to, I can tell you as an experienced permit processor that that is untrue. It's wrong. It ain't that way. Your staff works with applicants to make sure tree protection. And they don't care whether your project is as economical or not. They don't give that any weight whatsoever. They are there to get trees protected and if you need to move a tree or make a building smaller, they tell you just do it. So earlier characterizations that ordinance is not working and this is a disaster as a result of this ordinance not being strict enough, that's nonsense. This ordinance is not going to prevent people from going out and bulldozing trees. You may come after them and make them feel bad and ostracize. If you can figure out a way to do that let me know and I will support it. I submit a site plan and as an example I'm going to use two acres that I own on Manchaca. This property contains about 20 trees that would be regulated under this ordinance. I'm suggesting to you the sizes are too small. I think the iconic trees maybe are 36-inch trees and larger. Then I would only have a few of those trees to deal with. But in order to remove a few of these trees to allow for an economical project, will you submit my variance to the planning department. Taken ordinance says I'm entitled to a response within 10 days. If this works like the subdivision process projects will be summarily denied within that 10 days and then the discussion of the tree removal will continue for several months. Ordinance says that the planning and development department may request other departments waive and modify regulations so I can preserve trees, but it will almost certainly be the case that I'll be required, as the applicant or their representative, to chase down the representatives of the fire department, the highway department, the reviewer for commercial design standards, the Austin water utility, the Austin energy or a number of other agencies and request that they modify their regulations to accommodate the tree. Well, after they decline and they almost certainly will, decline to modify their regulation, the arborist may approach them again and try to get them to reconsider and I'm

sure he will do that. Mike is very good at going and advocating for trees. And at this point the ordinance provides for all of us to go meet with the city manager the see if the differences can be resolved. And I look forward to getting to know you a lot better in these cases. You know you will be hearing a number of these things. After that lengthy procedure, if the variance moves on to the land use commission there will be further delays with meetings and preparing the necessary reports and scheduling the hearing before the commissions. By this time the six months that you allow for consideration 'site plans will be expired and I'll have to start all over. This is procedural,ly, i think, not a good thing. The ordinance presumes that a variance will not be granted only if it's determined that reasonable access to the property and reasonable use of the property is denied without the variance, and that the variance is not based on a method chosen by the applicant to develop the property. Criteria has been criticized, but the city can arbitrarily deny these if they don't like it. I don't see that being a problem that you need to change the language to any use. I mean, it's arbitrary now. Give ten process stated or implied in the ordinance, a landowner under any level of economic pressure to develop the land is likely to consider noncompliance as a viable alternative. I think that's an unintended consequence with this ordinance. You are going to get more oak hill people under this ordinance because this process is going to be too onerous for people to cope with. I know that probably what I or many other people here say tonight might not sway you to do anything different, but if you undertake this public process, I appeal to you to give it a year or whatever time and relook at that. I think we're going to be visiting with the planning commission, the land use commission, with manager ott, we're going to be visiting with them an awful lot. [Buzzer sounding] it's going to take up a lot of time and I thank you for yours.

Mayor Leffingwell: Thank you, john. And you did use up all your time. By the way.

I apologize, mayor, and I'll get it back to you sometime in the future.

Mayor Leffingwell: You owe me. Next speaker is shannon haley. Okay, so you have gardner summer -- gardner in the chamber? Okay. Gardner signed up for, you are signed up neutral. Sharon bright signed up against. Dan crow signed up for. Dan crow? So all these folks who have donated their time disagree with you, but nonetheless have donated their time. [Laughter]

Mayor Leffingwell: So you have 12 minutes.

I'm neutral so. Thank you, councilmembers. I'm shannon -- [inaudible]. I want to start by addressing ann coleman, I think she does really good things. I want to disagree with her that the development, that there's not a large number of people out there in the community who don't feel perfectly okay about removing trees. And I say that because I wrote my thesis on the history and politics of the urban forest is austin, texas, and, you know, completion of that project I evaluated the effectiveness of the 19-inch ordinance. I looked at the site plan review process and I also looked at the effects of density on the urban forest. And what I found in my research was that, you know, density has introduced a problematic. We want to live in a certain type of city and, you know, in planning school we learned lots of things about different tools we could apply toward good urban form. Density is a tool, it's not a panacea, and we've been living in a city that's adopted this city as if it was going to solve all the problems and it can't and we're at the point we have to resolve this issue between our vegetative

environment and the services it performs and a type of urban forum that's good. I think they can work together, but it's not one way or the other. So moving along, you know, it's a scientifically accepted fact that these big trees, 20 inches and over, they really perform the lion's share of the ecosystem services that have been mentioned to you earlier. And regardless of species, a tree 24 inches and over produces benefits around \$200 a year. On the other hand, trees less than 10 inches at most produce about \$12 annually. The structure of our urban forest indicates that we have a very small percentage of these big trees that do lots of work. At most 2.5%. And conversely, up to 70% are under 10 inches. This from an urban planning point of view, this is -- this is very disconcerting. Howard's solution or suggestion about super mitigation will just further unbalance the structure of our urban forest and lead to increased reductions in urban forest benefits. On the topic of structure, I just want to say that I'm also glad to know who was responsible for reforesting the savannah grass lands of east Austin from that slide in Bartholomew Park because I now know who to blame for those Arizona ash trees. The next time you report, please plant some better trees. [Applause] The intent of this ordinance is to recognize the ecological, cultural, economical and historic benefit of these trees and mitigate the effects of development. The biggest problem to me is the version as proposed by staff significantly limits the number of trees we can protect. And it does so in the following way. It proposes that these trees receive protection. Their protection is triggered with a measurement of only the single largest stem. It's different from our 19-inch ordinance and it's problematic for two primary reasons. First, in terms of ecosystem services, which is one of the bases of this ordinance, you can have a multiple stem tree that has two trunks of 21 inches each. That tree would be producing services in excess of a 30-inch single stem tree. However, this tree would not receive protection under the current ordinance. Not even as a 24-inch tree. I think this is a problem. It's just mathematically inconsistent. One of the predominant forms of live oaks we all know which account for over 15% of our urban forest is multiple stem. On right-of-ways and park land alone, live oaks provide over \$3 million in services per year. And if you consider that over 90% of our trees reside on private land, this equates to over \$30 million a year. The second problem is that the rationale for this new type of measurement trigger rather than being based on sound urban forest or public policy is instead based on need for additional staff. The staff has told us their responses to the recommendations of our board, it's my belief that good public policy is not created out of a limitation for what we don't think we can achieve. But for out of our aspiration for what we know we should achieve. Both the forestry board and planning commission recommended our heritage trees be measured and protected using a standard measurement consistent with both national tree benefit evaluations and our own 19-inch ordinance. That is multi stem. Introducing a new standard of measurement is not only bad policy, it has the potential to cause a lot of confusion. And earlier the mayor mentioned Margaret Hoffman. She is a good friend of mine and she called me last night and she said the most important thing about this ordinance, keep it simple. We went through all this work and confusion and complexity, and this new form of measurement is just confusion. Another posteriorly area for confusion is -- potential area for confusion is the see ease list. The forestry board recommended we put this in rules, that we have an exclusion list. I think we want to make it easy. I've heard if you put four arborists in a room you will get five opinions. True. Let's vet that out and put that in the rules. Confusion means time, time means money, and I think staff has put in at least one of confusion into this current ordinance. Regarding the public process, multiple times in the past few weeks I've heard people complain this ordinance is an opportunity for people to use trees as a way to oppose unpopular development. Trees or no trees,

people will oppose unpopular developments and whether than oppose ordinances that promote our values as a city, maybe help should try to spend more time creating less unpopular developments. Finally, I want to close in saying that some of you may have been to the congress of new urbanism a couple years ago when andre was here and he said if austin wanted to be the city we aspired to be, we who quit acting like a cheap date. How do we keep acting like a cheap date? We set our sight on our vision, we stand by our values and aspirations to be the greenest and most livable city. We trust by standing by our values and aspirations we will attract the type of development that understands and respects these values. We will establish goals that we will believe -- that we believe in and we will find a way to achieve them. Thank you. [Applause]

Mayor Leffingwell: Thank you. Next speaker is john paul gore. Kathleen strong is in the chamber? Okay. Joyce pasiano. Chip harris. Chip harris? Chip? Okay. So john, you have up to 12 minutes.

Thank you, mayor. I don't think I'll take it all. Put up my slide up. Pave a parking lot, you don't know what you've got until it's gone. This is one of my favorite places in austin. A lot of people gather here. We're hoping a lot more will be coming once we get our local historic district off the ground and we work on that every day. Our neighborhood, as you know, as all of you all know, is defined as much by the mature trees in -- as it is by the old houses that are there. I serve as the tree preservation chair of the hyde park neighborhood and I'm here on behalf of my neighbors in hyde park, most especially they are the ones of all the issues that -- that we -- that we cuss and discuss among ourselves in hyde park, and everyone in hyde park has his own opinion about everything and we differ significantly and often. But when it comes the trees, we are united in our value of these trees both for what they contribute to our quality of life and to the historic ambience of the neighborhood. Going back to 100 years ago, at more than 100 years ago, 1895, the first moon light tower in austin was in hyde park. Monroe shipe planted those saplings up and down what was then avenue e. Now referred speedway. Not many of them were much taller than I am and I'm not a very tall person. This is what it looks like 100 years later. And these trees, especially those ones on the right, are some of his original plants that are reaching the end of their life and we love a number of them last summer. I can't look at this slide, particularly right there under the -- the moon light tower, without thinking of lee leffingwell, because, mayor, i can look at some of these trees and know that those trees would not have been there without your leadership. And we are grateful, we are grateful that for four years we worked with you on trying to get to this point where we have a heritage tree ordinance that austin can be proud of and you all can enact tonight. We think of hyde park as a very shady place. I did this little exercise I'm about to show you four years ago. I really don't have the heart to do it again because of what it will show you. This is, of course, a google map. Satellite imagery. I didn't have any infrared sensors or lasers at work, but I do know how to use photo shop and I do know how to identify the color values of the most mature shade trees along the bottom and then along hancock golf course and waller creek. Those values, if you drop out the rest of the image, this is what you got four years ago. To the left of that image is the very heart of hyde park, what we think of as the heart of hyde park, the avenues, the lettered avenues and the numbered streets. There's a lot -- there's not much shade canopy left there. You can barely make out the course of duvall and the heritage -- the entranceway to the north entranceway and again thanks to mayor leffingwell's leadership we have been able to save along the stretch. But the tree canopy is deteriorating in hyde park. Several people tonight have talked about how they were on a task force. Actually they were on a

working group and they didn't quite understand the difference, but those of us that worked to task force that was chaired by Carolyn back in 2006 remember what we recommended. First and foremost, citizen oversight for the city's trees decisions involving members of the public. That was our first recommendation from the task force four years ago. Next, we -- we asked that trees be -- the extension of 19-inch trees down to 10-inch trees. That trees at 10 inches be protected, and that whatever happened we would get more powerful incentives to retain trees and more powerful disincentives to remove them. We have compromised a lot on the way to this thing. We don't expect to get everything we want, but it serves us to remember where we started this process. What's come along had in the meantime is a dawning on us. Zap had a hearing to heritage tree ordinance, I wasn't able to make it, but I watched it on television. Not once was the issue of global warming mentioned. Not once has -- has the people who oppose this ordinance tonight raised the issue or dealt with it, nor has staff. This is one of our legacy post oaks we lost this year in Hyde Park. It will never be back. Even in the best of times you can't plant a post oak. And that tree can never be replaced and there are scores like it that died this summer in the drought, and many more that we don't know whether they will come back in the spring or not. Again, Tom Hays went through this with you, but I think it bears repeating. The science article that he cited said that the local climate of the southwest is going to look like the dust bowl, in case anybody wanted to remember what that looks LIKE, AND THE 50s DROUGHT. This is in the 1950's. Even the best of intention we're going to get little trees like that that we will never replace, that will never grow to the stature of the trees that we have now. That finding led the environmental board chair, Maxwell, who worked hard on on this ordinance, held four or five subcommittee meetings to conclude and thank us for the education, by the way that is correct the tree cover of Austin is irreplaceable. We can't mitigate what -- we talk about -- first of all, the three to one mitigation you've heard talked about tonight is nowhere in the latest version of this -- the mystery meat version of the ordinance from staff. But we can't mitigate our way out of this. Mitigation was -- might have worked in the old days. It won't work anymore because we can't expect these same trees to come back once we cut them down. There is a question of reasonable use in Hyde Park, and I'll just go through these. There's one after another homes, this is my own home, where we have designed and built around the trees that were there when we found these lots. As one of my neighbors who has lived there 30 years, the pattern goes, we see somebody die, then their little house is sold, then their little house is knocked down. Then the next thing we know, somebody wants to come and knock a tree down like this to MAKE ROOM FOR a McMansion and that's exactly what happened to this very healthy pecan tree moved to make room FOR a McMansion. Again, we can no longer assume we can replace these trees. Once they are gone, they will never come back. Because of the climate change that all the scientists say we can expect. And just along those lines, a case in point, John Crutchfield planted this tree at the corner of Avenue G with his father in 1947. Katherine went by and measured it the other day. This tree is old enough to qualify for social security, were it human, but it has not yet reached the girth that would protect it under the current tree ordinance, much less a heritage tree ordinance. Again, to go back to something the Heritage Society of Austin said and I think you should all have your later that heritage trees are irreplaceable treasuring of Austin and are an important component of the historic consent and story of our city. All of you I think were at the Heritage Society luncheon this week when there was a McMahon from the Urban Land Institute. You will remember what he said and it was much along the sign of what Shannon said being a cheap date as a community. We only get the development that we as a community demand. The more we demand, the

better development we will get t development community will deal with what you enact i feel certainly. I could go on with many examples. Really egregious examples. Whatever it is, that was a 34-inch elm. We wanted to preserve it. I think under your ordinance that you are considering tonight it would have been preserved, but because of confusion about the status of the permit, it's gone. The developer paid no penalty for bulldozing that tree, though we were outraged about it naturally. And back to something that mcMahon said, and the business about straw man and opposing our popular projects because of the trees, what he said, and I quote from memory, if you want to cut down your trees, of course we are going to oppose your project. And because of the way we value trees, I think you . This tree is kind of a bad one because this is the last time it was seen standing. I asked her to come down to support the ordinance tonight and she said will it bring the tree back, john? Of course it won't. Again, a question of whether the developer who cut this tree down was complying with his permit or not, I don't think he has paid a penalty. But the tree is gone. Enforcement, I think we've talked about that. We can go on. The public process, I think we all learned as a community in the barton springs situation where this picture is from that the collective wisdom of austin brought to bear on these tree decisions can bring out the best in our community and preserve the trees that we have today. Public process, the urban forestry board, the environmental board and the planning commission each went in pains taking detail through the recommendations that they made to you. They are all voted on recommendations by these public bodies. [Buzzer sounding] and deserve to be fully considered. With that I'll stop. Thank you, mr. mayor.

Mayor Leffingwell: Thank you, john, and thank you for your service on the working group. Thank you for your kind words. [Applause] david riskind. Signed up.

Thank you, mayor and councilmembers. My name is david riskind, a resident of austin since 1963, back when it was a mirror burg. My day job is with the state parks system, but I'm representing myself. I've managed a science steward ship for state parks and we deal with a number of tree issues as well. But what I wanted to speak to was the list included in the proposed ordinance. Taken ordinance, again, i applaud you, is another element of the quality of life in austin. And I think john spoke eloquently to that issue. The list in the ordinance as proposed is a mixture of native species. It's a mixture of nonnative species to texas. It has a number of species in it that do not occur in the city of austin. They really are not part of the heritage of the city of austin. And what I would like to do is mention that it ought to be a part of the rule, not the ordinance that it can be modi or changed. I think it's a very important issue, but I also think because there are a diversity of spins and a lot of trees to list were there because people have cultural bias. Cottonwoods are not on it. Some of those are pretty magnificent trees in our parks and residences, a lot of people don't like them, but a very old cotton wood tree certainly is a heritage tree. All of that's need to be in rules and should be in rules and I also am recommending that you have a separate working group kind of work up the species list for the city of austin so that we don't just deal with just a few, very few oaks. Curiously one of the trees that's listed as a heritage tree is a tree that got popular two or three years ago, it's a monterrey oak native to mexico, but there's one plant in the state of texas that occurs on nature con serve venosi property. Again, I think it should be a part of rule and I think you need to appoint a separate working group of arborists, botanists, interested citizens to develop truly a representative list of protected trees for the city of austin. Many of them that are on the list certainly a valid, but mism mash there. I think it is foreign reflect the diversity of the national heritage of

austin. Thank you.

Mayor Leffingwell: Thank you. We're constantly evaluating our tree list and that process will be going on, continuing to go on and I'm sure staff would welcome your suggestions in the future. Corey w. walton. Signed up neutral. Have you three minutes.

Did I really write that? Corey w walton.

Mayor Leffingwell: Yes, i did. I told you it appears. Spell check.

I signed up neutral and I'll explain that in my words. Good evening, mayor and councilmembers. I'm corey walton. I'm president of the austin neighborhood council. Which as you know comprises neighborhood and homeowner associations throughout austin. Amt unanimously passed a resolution asking for basically the same kind of provisions that were recommended by the urban forestry board, the environmental board, the planning commission, and even last night by the zoning and platting commission. And these recommendations have been throughout the work group and the presentation to these groups basically consistently ignored by staff. And the draft ordinance before you tonight from staff continues to ignore most of those provisions. And in fact it even includes some brand new provisions that nobody has ever seen. Why is that? I think there are several possible reasons. I want to go over real quickly. You've heard a lot of misapprehension about the number of trees this ordinance would cover. But even when you include multi-stem trees which comprise many of our live oak trees, you've heard experts here tonight with data indicating that the impacts on city administration, review and enforcement would be far lower than staff's and reca's dire predictions. And I think wouldn't it be prudent approach as some of them have suggested that before we, you know, lop off any more of these trees, we try it for a period, six months to a year. So that's one suggestion. And I believe -- well, that's in the planning commission's draft. There's also a misunderstanding that we've heard a lot tonight about the very term heritage tree. This ordinance is not about preserving picture perfect historic icons for promotional literature. It's about the economic value in preserving the superior functioning benefits that these trees provide in terms of erosion control, shade and air quality compliance, and yes, property values and enhancements. So sacrificing these trees for the sake of site plan expediency I think would be extremely short-sighted. We've seen far too many examples and one just last week of an ordinance with weak incentives for compliance and mitigation. Those incentives have got to be clearly stated in the ordinance itself and no -- [buzzer sounding] -- city department should be exempt from the ordinance. I think a lot of these thoughts --

Mayor Leffingwell: Your time is up.

Are included this the planning commission draft. Thank you.

Mayor Leffingwell: Thank you. John ogden. John ogden in the chamber? Okay, then, we go to roy whaley. Roy whaley. Scott johnson. Scott is here so roy, you have six minutes. mayor, since shannon didn't use dan crow's three minutes, she only used eight minutes, if I could have those, and if not gene

mather is in the chamber and if I could have her three minutes.

Mayor Leffingwell: What is your name?

[Inaudible]

Mayor Leffingwell: Dan crow? You can't transfer time. That time has already been used.

Jean's has not.

Mayor Leffingwell: I don't remember time has not been donated? Jean? Jean, you donated your time to peter pasaro. [Laughter] we'll allow to you change your donated time to roy whaley. Roy, you have nine minutes. Up to nine minutes.

Thank you. My name is roy whaley. I am the vice chair of the austin sierra club speaking in that capacity this evening and I'm very happy to be here this evenin this kumbaya moment. That we're going to hammer out the details. I want to start out by saying it doesn't matter what we come up with tonight. It does not matter what ordinance we put together this evening. If there is not a strong enforcement component to the ordinance. So we have to put that in place. And there's been talk about how to incentivize the developers. And I'd like to say right now that sierra club is anti-sprawl, we're pro-density in the right places and the right ways. We're not anti-development, we're not anti-profit. We're all for it. And I understand that it's a very small number of bad characters that will be the ones breaking the rules here. But when they do, just like when I get pulled over when I'm speeding in my car because it never happens on my bicycle, but when I'm in my car and I'm speeding, I have to pay a penalty. There are places where the penalty goes up, okay? 40 Miles an hour is 40 miles an hour whether I'm in a 30-mile-an-hour zone or a school zone. But the penalties go up when you are in a school zone. And so accordingly the penalties should go up when you violate the heritage tree ordinance. One of the problems that has been discussed is affordability. One of the things that I've heard said before was that for every \$140,000 home that goes up \$1,000 in price, 1800 families got knocked out of qualifying. That's pretty impressive. So realtor. That's how I pay my bills. I thought boy howdy, I want to sell some of these \$140,000 homes we're selling austin, but searching the mls, i couldn't find any homes being built for \$140,000. The affordability issue doesn't come down to the single-family home buyerer. Where I see this can be happen the costs can be spread evenly and thinly so that it is covered. Let's see. I do want to talk about city exceptions to austin energy. I don't think they should have exceptions. We've talked about a superiority being mentioned here. That's a pretty sticky wicket. We don't know how to define superiority when we deal with a p.u.d. ordinance right now. There is a lot of discussion and argument about that. I don't think superiority is the way to go having proved it doesn't work already. We do -- the sierra club very strongly does support a public process. To say that we can't have a reasonable conversation i don't think is true. I think we've had a pretty reasonable conversation here this evening and I think that can continue. All the boards and commissions that have -- that would be impacted by this have said they would be willing to take this on because they understand the importance of trees in austin. When we look at cost analysis, I'm sensitive to that, but let's make it a comprehensive cost analysis. We have to look at the public benefits of heritage trees. As the science has said, and we've

got a lot of people that have spoken this evening and I'd like to say right now that after the public hearing is closed and frequently you all call staff back up for questions, we've got a lot of well informed people that have spoken this evening and I would encourage you to call them back up and ask them to expand on the information they are sharing with you this evening. But to get back to cost analysis, let's talk about the health benefits of trees. Right now we're spending millions of dollars, millions of dollars are being spent at Fayette to install scrubbers. We already have scrubbers, they were called trees. They process and clean our air for us. We're going to have a problem this summer when we get back to worrying about nonattainment and it's pretty certain we're going to reach nonattainment especially with them changing the regulations. So we don't need to reduce our air cleaning capacity that we already have right now. We need to be planning more trees in addition to saving the ones that we have. As I believe John mentioned regarding I don't know where we're coming up with the three to one formula. Hays was saying in regards to the basal. It should be based on the impact the tree has, not just on its diameter. In regards to multi stem tree, the multi stem tree should be included because if it's having the same positive impacts that a single stem tree is, that's what we're after and that is the whole idea. Also, I'm glad Shannon hit on this. Looking at the photos, we didn't -- yeah, we got to see a blank area and then lots of trees there 30 years later right through that area and you notice that they are deterring Arizona ashes that are in the process of dying. What we don't have this evening -- well, we did have it too, but not an aerial photo showing you what it looked like before and after in Oak Hill before all the trees were cut down. And when that poor gentleman by Boggy Creek made the mistake of cutting down 10 acres worth of trees over there. Once again she's not a bad person, just a person that acted unwisely and not following -- by not following the rules. We've heard also this evening that -- well, it's his tree, you haven't contributed to the upkeep of the tree so why should the public have any say in it. Well, in regards to the Boggy Creek incident, as I understand it, this very likely is going to impact the flood plain over there. It's going to impact runoff. It's going to impact sediment. It's going to impact everyone downstream. It could impact the roadways over there and we're not going to ask an individual to pay all of that. The city is going to have to pay that cost. We can only mitigate what we can. And we are stuck, unfortunately, with a \$2,000 limit per tree. That doesn't mean that it can't be \$2,000 per tree per day until this is mitigated. One of the problems that we have is that, as I understand it, city staff works very hard with the developers to develop this mitigation plan and put it in place and get them back in business as quickly as possible. This is the only place in the justice system that I know that wants to get the criminal in and out and back out on the street. And my apologies for my analogy. I'm not comparing you to criminals. I'm not calling you criminals. So please accept my apologies if that came out wrong. Sorry. But anyway, let's take our time. The good guys aren't going to be hurt by this. It's the bad actors that we have to be aware of. Also I'm a realtor, like I say, be careful what you buy. Have your plan in place before you go in. An ounce of prevention is worth a pound of cure. I'm sure I can come up with some other cliches too, but have your plan in place before you close on this. Know there are trees there. Know what you plan on putting there. Don't plan on saying we'll take care of these trees after closing and we'll get our variances. You will save a lot of money just with a little pre-planning. And don't plan on going yet. By the city numbers -- [buzzer sounding] I'll wrap up quickly. Thank you for your time. These are important. I know all of you feel that way. Let's get a good tree ordinance that can make our city very happy because nobody relocated their business from Arizona because there were too many trees there.

Mayor Leffingwell: Thank you. Those are all the speakers I have signed up. Did I miss anybody? Those

are all the speakers. And we'll now go to council, any questions or would anyone like to make a motion? Councilmember shade. Shade shade excuse me. I'm having some allergy issues today. Mayor, thank you and as has been noted thank you for your leadership on this and thank to you all the people who have been speaking. Many of you we've all met with individually along this process and I appreciate and wanted to acknowledge that all of the ideas that have been brought forward today are definitely subjects of major consideration for all of us over the last several weeks and months and even years. I have gotten a lot of e-mails, as I'm sure most of my colleagues have, that are, you know, picking the planning commission version or the planning environmental board version over the staff recommendation. I just want to make a motion, but before I do I wanted to explain that from our -- from where we sit, we have lots and lots of these versions and lots of side by sides to look at all the versions and i would like to make a motion that is sort of like what i hays said which is start with the staff recommendation and then -- which includes almost -- well, includes many of the planning commission's recommendations. However, I actually went through to get marked up exactly how many items are still up for discussion and that I think we need to have a debate about. And I expect that will. For purposes of starting the debate and the discussion, i would like to move we adopt the staff's recommendation, and I'm comfortable moving adopting on all three readings assuming we can get to some conclusions today.

Mayor Leffingwell: So councilmember shade moves to close the public hearing and adopt the staff recommendation on all three readings, seconded by the mayor pro tem. Councilmember riley. I would like to offer a couple of amendments. They are amendments directed at the definition section of the ordinance and that's part 2 and I'll start with one and just state the motion and if i get a second I'll explain the reasoning behind it. The motion --

mayor, I would suggest that he offer his amendments as friendly.

Mayor Leffingwell: He did offer his amendment as friendly which does not require a second. I'll make the case for it. The motion is simply to incorporate the -- the approach of the planning commission with respect to defining a heritage tree on the basis of multiple stems as opposed to a single stem. And the wording, colleagues, you have in front of you on the green sheet is to move to -- it's in part 2 of the staff recommended ordinance and the amendment would affect the definition in section 25-8-6 on 2, subsection is s. To delete the word at least one stem width. And it would simply move to -- let me back up a little bit. We all recognize the benefits of trees. And in particular heritage trees. That's why we've seen the outpouring of interest in this subject. By the way, I want to thank everybody we've heard from. We've heard from hundreds of people literally and heard a lot from our staff and boards and commissions, folks in the development community and regular citizens. An awful lot of people have spoken up on behalf of the trees. And it's because we all recognize how critical trees are in preserving our quality of life and we know all of the benefits they offer in terms of reducing our energy bills, mitigating storm water runoff and soil erosion, improving air quality, sequestering carbon and property values across the city. The challenges is to strike the right balance to provide as protection as possible without placing undue burdens on staff or on property owners. So the first step in that challenge in striking that balance is to define the scope of the trees that we're defining as heritage trees. The staff recommendation would -- would take the approach of just focusing on a single stem. Just look at that one single stem and how big is it. If it's greater than 24 inches. I would suggest that we instead go with

the same approach that we use for defining protected trees in general. And when we define protected trees what we do is we actually just measure the largest stem, but add in one-half of the other stem so you consider multiple stems. It's particularly important with trees, as some speakers mentioned, such as live oaks which typically have multiple stems at the four and a half foot level where we do that measurement. We all know they are significant trees worthy of protection and really the only reason they haven't been included is because broadening the scope of the ordinance to address multiple stems would significantly increase the number of trees we consider to be heritage tree and that would create additional burdens on staff and on the public process. I want to note, though, that within this amendment if we just go with this amendment, if we look to the public process that's set out in the rest of the ordinance, the public process would actually involve -- well, there would be an administrative process unless there is one stem greater than 30 inches. So with this amendment, we would still keep that, even though we would be providing trees from 24 to 30 inches with the protection of heritage trees, they would be considered heritage trees, but only if they have a single stem greater than 30 inches would they be -- would they require review by the land use commission. The idea there is to yes, afford the protection to those heritage trees, recognize that multi stem trees are worthy of protection, but strike a balance that doesn't overwhelm our staff and property owners by requiring too many public hearings. I want to, if I could, just pause at this point and ask staff since we have -- since the burden on staff is a question here, could I just ask staff if -- if staff feels that this burden is something -- if we were to go with this approach, would staff be able to find the funding and the resources to handle the increased workload that they would get by having to review all of the multi-stemmed trees that we would be including within the definition of heritage trees.

Councilmember, greg guernsey, director of plan and development review. If you approved the ordinance as this suggests, staff could find the resources, I think, to make sure that your policy is carried out in the field and that we could move forward. I don't know how to do that right off the top of my head, but I think we can get there. there are posteriorly funding sources but I think it's important to note we could handle this and, again, this is striking a balance, broading protection for multi-stem heritage trees while still limiting those that actually receive the whole public review process. Those heritage trees that have a single stem greater than 30 inches. And I know that there are questions as to how many heritage trees, how many public hearings this would entail. I'm not sure any of us really knows the answer to that so i think as we get the other amendments tonight, we'll be talking a lot about the reporting that we get from staff so we can monitor this, but I think it's worth setting out down this road and seeing if this would work. I'll definitely accept as a friendly amendment.

Mayor Leffingwell: Mayor pro tem.

Martinez. I don't think I can remember everything he said.

Mayor Leffingwell: Heritage tree defined the same, but the variance required would only go through on public process if one of those stems, a single stem, is greater than 30 inches. So that is accepted by the maker and second and I believe you have another one, councilmember. I have one more that I hope is friendly and again in the definition system and relates to the list of trees. And you again have the language before you and in part 2 of the ordinance, section 24-8-602. And my first suggestion is when

you look at that list you see of all the -- you see a long list of trees set out in the ordinance. 11 Of those are different types of oaks from the flat jack to the texas red oak, some of which I've never heard of. I would suggest we take out all those oaks and replace it with a suggest that just says all oaks. Simpler to include all oaks. Secondly I would suggest that we add a sentence at the end of the definition that would read this list of heritage trees may be supplemented but not reduced as prescribed by rule. So that we still retain the flexibility to add trees by rule. Where we would have basically a top 10 list. A list of 10 trees we all agree should be considered heritage trees. Over time we could add additional trees through a rule making process. I would add one final part of that and I would suggest as part of the rule making process that we add the urban forestry board for a list of those involved in the rule making process.

Mayor Leffingwell: Councilmember riley offers a friendly amendment to the effect of the list of trees that would be included as heritage trees and we have that in writing. Do you accept, councilmember shade?

Shade: I anticipate that. [One moment, please, for change in captioners]

approval criteria a3, that we also eliminate the language or the safe operation of existing public utility services. And then leave the remaining other language. And as well under 25-8-462, the administrative variance, eliminating the language "for the safe operation of existing public utility " mayor pro tem offers a friendly amendment to delete paragraph d of section 25-8-621, and paragraph e of section 25-8-641, and to amend paragraph a3 of section 25-8-624 to delete the words "or the safe operation of existing public utility services," and to amend paragraph a 2 of section 25-8-642 to delete the words "or the safe operation of existing public " is that acceptable to the maker? Okay. is someone here from legal? , Or mayor pro tem martinez may know this. I don't know what the state statute says that we are assuming that deleting this language is okay, because this is pretty significant to me to say that our utilities can't go in and -- i would just say, council member, this is the existing language that has been there since 1983. It brings it back to the existing language. I'm sorry --

martinez martinez this amendment doesn't preclude the utility from going in and eliminating a tree in a storm event or an emergency situation. For me, the significant part of this is if we are going to write ordinances and we are going to ask the community to comply, we need to do everything we can as a city first to comply, and so that's simply what it is. It doesn't take away any authority from any utility to remove a tree in a specific emergency event, where life or property is at risk. But just the language alone seemed to imply that we're strengthening this ordinance but yet we're giving this little bit of wiggle room and kind of a way out for utilities to remove trees without going through the exact same process and complying with the same rules. And I just wanted to make sure that that was crystal clear that we need to do in every instance exactly what the ordinance says unless life or property is at risk. it's really confusing duplicative language that already exists in the ordinance and exists in state statute. Is that what -- martinez martinez right. Martinez -- and --

mitsy cotton, assistant city attorney. I think what I understand you to be saying is that austin energy community, other provisions, the criteria that are already in the protected tree ordinance about the imminent harm or the imminent -- imminent harm to safety that they can use that to take out a -- remove a tree or prune a tree if they need to, and i believe that is true. I think that is the section they can use.

and, cotton, also confirm what I just said, that this brings us back to the language we've had in the existing ordinance since 1983.

With the addition of the word "eminent," yes.

And I am going to accept that friendly amendment and just want to call attention to the fact that in my handy version of the staff -- staff-proposed ordinance and comparing it side by side with all the others, the pink is the area that mayor pro tem is talking about, and that's the only part that hasn't been vetted by the planning commission -- it was added after the planning commission's recommendation. That's yet another reason why I feel fine about approving that, approving that friendly amendment. So now everything that we're talking about in this staff recommendation is something that has been discussed and debated in all the prior -- well, in the planning commission's deliberations. I just want to clarify that.

Mayor Jeffingwell: okay. So accepted by the maker, obviously accepted by the mayor pro tem who made the suggestion, so that is now part of the motion. Council member spelman. thank you, mayor. We are making some substantial changes. In particular we're doing some things we never tried to do before. And the staff -- in the staff recommendation and in previous recommendations of our various commissions all call for the land use commission to consider trees -- to consider cases of removal of trees of 30 inches or greater. In previous conversations we've had with staff people, we've had various estimates as to how many cases are likely to come before the land use commission of that size. We can estimate on the basis of how many cases of tree removal there have been, how many trees of that size there were in the hill country in an average lot, and all that, but frankly i don't think any of us really know. We can be fairly sure that if we brought down that threshold from 30 inches down to 24 inches, we'd probably more than double the total number of cases that would come before the land use commission, however, and particularly since we're talking about a procedure we haven't tried before, we're asking our land use commissions to do something they haven't done before. It seems to me that it would be asking for a little bit of trouble for us to reduce that threshold from 30 inches, which may, in fact, be too low, maybe perhaps it should be higher. It's hard to tell right now -- bring it down lower and more than doubling the number of cases, this isn't the time to do that. Once we have an experience base, once the land use commissions have considered some of these cases it might make more sense. So on the other hand, i understand why people would like to have 24 to 30-inch trees considered more carefully, perhaps by a land use commission, than they would be. So allow me is to suggest the following compromise. We retain the language for an administrator review of trees 24 to 30 inches, but we require the city arborist to report on a monthly basis to the urban forestry board in fair detail as to what kind of decisions that he or she has made not on a tree by tree basis but perhaps on a lot by lot basis to determine what the criteria -- what criteria were used for making decisions either for or against removal of a tree, and giving the urban forestry board sufficient information to make a decision as to whether or not those criteria are properly applied and whether those are the proper criteria to use for those administrative decisions. I would move to remove the -- to require monthly reports of the urban forestry board by inserting the words report monthly to after the words environmental board and. Friend friend ly amendment by council member spelman. Council member shade?

Shade: I accept that. mayor pro tem? So that's now incorporated into the main motion. Council member

morrison? thank you, mayor. One of the things that showed up in the staff version that is not in the planning commission recommendation relates to whether or not a so-called trade could be made if there's superior tree preservation based on the method that the owner is suggesting, and I think that was mentioned by a couple of folks, that using the word "superior" is very subjectively we've run into that and had lots of conversations when "superior" shows up in other parts of our land development code. So I was interested particularly in trying to put some teeth and predictability into what the -- how we're going to evaluate whether or not something is superior, and there is something -- there are some evaluations -- obviously trees bring many, many benefits, environmental health and aesthetic and all that, and as I understand it, there are some ways that arborists can give a value to a tree that I thought we might be able to incorporate into our evaluation and consideration of superior. So I wanted to ask lambizi, our arborist, if he could come up and talk about that a little bit so that we could consider getting some language in there to get some teeth into "

mike lambizi, city arborist with the planning and development review department. Assessing impacts -- the potential impacts to trees is my main course daily. I look at all these different situations, no matter if it's residential, commercial property. Having a superior tree plan is my target for each assessment, and there are multiple ways of assessing these type of situations. One is the number of inches or the caliper inches. We've heard of ecological services today. Each tree could have an appraisal value or a replacement value, and what I typically look at the diversity and the health of each tree and we try to quantify a value for each site. so does that actually take into account ecological service value of a tree?

Ecological service is fairly new, but it's -- it's science-based and it's being recognized by the texas forest service and the u.s. Forest service, and what this is is a tool to give an annual -- give an annual dollar amount on the services -- or really the benefits that these trees, or this particular tree, provides to the citizens, and this dollar amount is divided into an air quality figure, a water quality figure, shade, carbon sequestration and energy conservation, and so that is one tool that we could use to assess those type of situations.

Morrison: okay. And that's the kind of thing that I think would be a good thing to incorporate because it really is going to give us a perspective on the overall value of all the benefits that we're talking about. So what I'm going to suggest is that we replace the word "superior" with a design that will allow for the maximum provision of ecological service from the trees, but I have one more question before I make that motion. I want you to help us understand. If, in fact, we're talking about, then, a decision either by the land use commission or you as the arborist in an administrative situation, where that is the consideration that, okay, this heritage tree could be taken down because this other set of -- scenario of trees is superior, how can we ensure, and how will we record, that those new trees or that grove or whatever really has special meaning now, it's not just any old grove of trees, because it has already been accounted for with the previous heritage tree.

Thank you. That's a very good point, it's something that we haven't -- we've thought about in our many meetings, because as this is evolving. We have tools during our site plan review to make special annotations within our site plans. These trees will likely not be heritage size so they won't carry that heritage definition, as you were describing. So we may be able to specify in the site plan that this grove

of trees or this set of trees is now compensation for allowing a heritage tree to be removed, and it can have that superior preservation as well.

Morrison: okay. Thank you. And I want to -- so I am going to make this motion as a friendly motion, but I do want to stress that with this in the code, it still has the language of the variance may be given if this situation arises. It's by no means a right if the situation arises. So my friendly amendment, which I hope is accepted as friendly is the amendment to move 13 of the staff recommended ordinances, subsection 25-8-642 c2, and subsection 25-8-643 a 2, to delete, quote, "superior overall tree preservation" and replace with, quote, "a design that will allow for the maximum provision of ecological service from the "

mayor leffingwell: okay. Friendly amendment by council member morrison to amend part 13 of section 25-8-642 c2, 25-8-643 a 2, to delete "superior overall tree preservation" and replace with a design that will allow the maximum provision -- for the maximum provision of ecological service from the trees. I like this idea but before I accept it i have one quick question that came to me after hearing some of the comments today about hearing some of the things that are part of this, like historic or cultural value and is that something that should be added as well as ecological service. And I think it was shannon that was talking about that and ann's comments that got me thinking about that. But is that something -- I'd definitely consider that. lambizi if that sounds like it could also be integrated into the service value of a tree lamb tree.

The ecological services model that I was speaking of earlier looks at the tree itself, so if we're looking at abiotic situations or characteristics, it would not be incorporated within ecological services.

Is there a way -- it seems based on this comments and based on some other cities, how they define heritage trees, cultural and historic seems to be important too. I don't know how -- i mean --

morrison: if I may. So you're suggesting that instead of ecological service, you're -- it would be expanded to be ecological and cultural service, perhaps? Shaped shade well, I mean, i was think. I was thinking ecological service, historic or cultural value. I'd be -- figure out how to manage that -- I mean, I - - you would accept -- yeah, I would be happy to add those words. It looks like we're going to have to challenge lambizi to help -- come up with some way to actually quantify that.

The quantification would be in the form of a rule, and that will challenge me but I'll have to do that. I know you're up to it. the heritage society people might help.

Yes. thank you for that. I think that's an improvement. so we now have the friendly amendment, the new language will be "a design that will allow for the maximum provision of ecological service, historic or cultural factors from the " that's accepted by the maker and the second. Cultural value. I think historic and, not or, cultural. and i have one last friendly amendment, and this is kind of new, so I apologize for that, but it's to amend part 10, paragraph 25-8-8-624, a6 b, to delete the words " it's part of the utility addition that we missed on the first go-around. Council member shade accept? Mayor pro tem? So we now have a significantly amended main proceedings, and I'll furnish all this language to the attorneys and to the clerk. We have it all in writing. As city attorney does this pose any problems on all three

readings? Or I think we worked this out already.

I'll ask -- she's more familiar.

You're asking whether or not we have enough information to do this for all three readings?

Mayor leffingwell: yes.

Yes, we do.

Mayor leffingwell: okay. So the motion is to approve the staff recommendation as amended by numerous friendly amendments, close the public hearing and approve on all three readings. Motion has been made and seconded. Okay. Council member shade. before I make the motion I wanted to clarify, I think I might have misunderstood on the -- my friendly amendment to the friendly amendment, i actually have just reread that and I think it's a mistake to have the word and, it should be or, because otherwise you're forcing a choice. I think it depends on the situation. So what I had originally proposed I think is or. Would you be acceptable to that? I mean, I just made it -- if I could just clarify that we want to make sure that when they're assessing the value of the heritage tree, that -- and the value of the other set of trees or whatever it is.

Shade: right. that he will take into account the ecological service, he will take into account historic value, and you will take into account cultural value. So all three. you take all three into consideration. it's not that he can just take historical and forget about ecological.

Shade: gotcha. Okay. I think that would be an and and we can --

just in the interest of clarity can I have you read the whole sentence for me? I have I'll read it because I have it here. After the word result in, a design that will allow for the maximum provision of ecological service and -- I'm sorry, historic or cultural -- and cultural value from the trees preserved. I'm sorry.

So ecological service. historic and cultural value. Thank you.

Thank you. and then I did have one other question before we -- before we vote. go ahead, council member. which is about -- our already approved site -- are already approved site plans exempt from this, or how does that -- they are? Okay. I just wanted to confirm that from staff --

mayor leffingwell: mr. Mu mu rphy, or attorney?

They would have protection from it, assuming if they have production under state law, nerd, if they -- you're talking about the grandfathering provision in state law that say that once you started a process, we can't change the rules midstream, so assuming they have that protection, the trees would be included in that, so it would not apply to a site plan. If it expires later -- yeah, okay, just wanted to get that clarified for those out there asking that question. Okay. Thank you. I'll move for all three readings.

you already did.

Shade: all right. So I'm fine. motion by council member shade, second by the mayor pro tem. Any further discussion? All in favor say aye.

Aye.

Mayor Ieffingwell: aye. Any opposed? Passes on a vote of 7-0. We'll revisit this issue in another 25 years. [Laughter] [applause] thank you very much to everyone for a lot of hard work. Mr. murphy?

Thank you so much, Council. Appreciate all your hard work on this. and I believe city clerk, there are no more items on our agenda, so without objection we stand adjourned.

**End of Council Session Closed Caption Log**